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Father P A U L *B.F.6*
Of Beneficiary Matters :

O R,
The DUES of the ALTAR.

Being, A
Compleat History
O F
ECCLESIASTICAL REVENUES.

S H E W I N G,

I. Their *Rise, Progress*, and the *Various Means* by which they have accrued to the CHURCH.

II. Why the CHURCH in its Infancy had no *Immovable Estates*.

III. That ECCLESIASTICKS become too greedy in *acquiring Estates*; and that their *Avarice* ought to be restrained.

IV. That *Estates* left to the CHURCH, in prejudice of the *Legal-Heirs*, ought to be rejected.

V. That when BISHOPS became Judges of *Civil Affairs*, they neglected to Teach the Doctrines of CHRIST.

VI. The Original of TYTHES;

and of the *Pretensions and Claims* of *Curates*.

VII. The Original of CARDINALS, who were at first inferior to BISHOPS.

VIII. That the Abuse of *Non-Residence*, sprung from *Ordaining* without Title or Office.

IX. The Distinction between Benefices *compatible* and *incompatible*. The *Commendam* its Original; and what are declared by the *Canonists* to be *Necessaries* for the *Subsistence* of the *Beneficiaries*, &c.

X. That the *Canonists* have alter'd the ancient Policy of the CHURCH, by asserting the Pope sole Proprietor of all Benefices.

L O N D O N:

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T O

The Right Reverend Father in GOD,

E D W A R D,

Lord Bishop of DURHAM.

My LORD,



AMONG all the Books
which have been written
for the Service of the
Church, I know of none
that can dispute the Merit with
this Treatise Of BENEFICIARY MAT-

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TERS.

TERS. All the Learned, who have read it in the Original, agree, That it is in nothing inferior to the Author's celebrated History of the Council of *Trent*, but in the Size: And there are even many of the most approved Judges, who make no scruple to give even the Preference to the following Pages.

THIS has made me presume it to be a Present worthy of your Lordship, as a Person capable of judging of its true Merit: And my Friends have desired I would not let it go into the World without seeking such a Protection as would both be the greatest Honour, that could be procured,

The Dedication.

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cured, to the Memory of the judicious Father PAUL, and indeed one of the most effectual Means to remove any Prejudices which might be conceived against him in a Protestant Country.

BUT, as the several Versions which have been made of *This TREATISE*, are sufficient Recommendations of its Worth abroad, so there is nothing wanting to recommend it to the *Clergy of Great Britain*, but, what I hope will be granted, the Stamp of your Lordship's Approbation.

THE

THE present Translation, my Lord, is made from the *Italian* Original, and from the most correct Copy of it extant, printed at *Mirandola*, 1676. And I have, to render it more Useful, illustrated it from the *French* Version, with the *Notes* and *Observations* of the Learned Monsieur AMELOT DE LA HOUSSAIE; which are indeed unanswerable Confutations of the undeserved Calumnies spread against the Author.

THE pains I have taken to do Justice to this elaborate Piece, will be highly recompenced by permitting me to subscribe my self, with
the

The Dedication.

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the most profound Duty and Re-
spect,

Your LORDSHIP'S

Most Obedient,

and Devoted,

Humble Servant,

Octob. 26.
1730.

CHR. HAYES.

the most precious Duty and Bo-
nefice

For the

Most Obedient

and Devoted

Humble Servant

CHRISTIAN



ERRATA.

IN the Preface of the *French* Translator Page 1. Line 18. for *Evils* read *Events*. p. 28. l. 5. dele *ignorant*. p. 64. l. ult. after *nor* add *were*. p. 65. l. 3. before *finding* add *these*. p. 68. l. 2. dele *by*. p. 101. l. 9. for *Regale* r. *Regalia*. p. 130. l. 10. for *of* r. *in*. p. 133. in the Notes, col. 2. l. 2. for *sacerdotio* r. *sacerdotia*. p. 137. in the Notes, col. 1. l. 9. for *negent* r. *neget*. *ibid.* col. 2. l. 23. for *were* r. *was*. p. 148. in the Notes, col. 1. l. 14. for *mergeretur* r. *mergerentur*. p. 158. l. 4. for *Gregory VI.* r. *Gregory VII.* p. 163. l. 16. at *Taxes* add the Reference (10). *ibid.* l. 22. after *is* add *in this case*. p. 175. in the Notes, col. 2. l. 13. for *Officiates* r. *Officiales*. p. 180. in the Notes, col. 1. l. 10. after *State* add *are to be corrected*. p. 201. in the Notes, col. 1. l. 5. after *plebem* add *quacunq; generatione*. p. 207. in the Notes, col. 2. l. penult. for *exemptis* r. *exemis*. p. 214. in the Notes, col. 1. l. 18. dele *he made*. p. 220. l. 19. dele *laudable*. *ibid.* l. 26. for *she* r. *it*. p. 227. in the Notes, col. 1. l. 31. for *veneantur* r. *vereantur*. *ibid.* col. 2. l. 12. for *notiam* r. *notitiam*. p. 230. l. 27. for *not* r. *no*. *ibid.* l. 28. for *the* r. *this*. p. 235. in the Notes, col. 1. l. 7. after *of* add *a*. p. 239. l. 9. for *uniti* r. *initi*.





P R E F A C E

Of the *French* Translator.



SINCE the Treatise of Benefices first appear'd in Italian, written by Pad. Paola, there has been a general Expectation of a Translation of it into French; and I was rather led into the Expectation of its appearing ere long, from the Report spread among the Men of Letters, That there were five or six Translations which were, or would be printed in different Places. This furnish'd me, for some Time, with an Answer to the Importunity of some Friends, that I would undertake this Work, and indulg'd my own Inclination in not interfering with other Writers.

But at last, through a certain Fatality in writing, as in other Evils of Life to which a Man is fated, it has come to pass, that the same Reason which I first gave for my Excuse, has brought me to comply with their Desires: So I shall

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have those for Readers, who I hop'd would have been Writers themselves; and am, perhaps, also to undergo the Censures of those, whose Writings I doubt not but I should have had in very just Esteem. For the Excellency and Importance of the Subject will not suffer me to doubt, that the Translation has been undertaken by Men of very suitable Abilities, whose Approbation is of that Authority, as to have given such a Reputation to this Undertaking, that my own Wishes could not have suggested a better Fortune to attend it.

As to my Author, there is no need of saying any thing here, either as to his Person or his Writings, the World is so well inform'd of them both. I shall only say, That having had three Cardinals, of the greatest Characters for Learning, his Adversaries during his Life, and a fourth after his Death, he had the Honour however to be acknowledg'd for the best Writer of his Age: And if I mistake not, as well as many others, this Treatise will not be thought to contradict this Opinion.

I have divided the whole into 54 Chapters or Articles, for the Ease of those who
are

An A D V E R T I S E M E N T,
concerning a Book, intitl'd, The Hi-
story of the Original and Progress
of the Ecclesiastical Revenues, by
Ferom à Costa.

AS there is a great Relation betwixt
this Book and the Treatise of Ben-
fices wrote by Pad. Paola, an able Lawyer
who has compar'd one with the other, has
made a Judgment of them, which I have
thought well deserv'd a Place here for the
Instruction of Readers who have not read
them both, or who are not able, by any
Lights of their own, to determine to whom
the Preference is due.

The Author of the Republick of Let-
ters seems to give the Preference to à Costa,
in concluding in these Terms: It is be-
liev'd that this Book surpasseth the ex-
cellent Treatise of Pad. Paola, concer-
ning Beneficiary Matters. *Artic. 3. of*
the Month of May, 1684.

Our Lawyer, on the other side, sets no
Value on the Book of à Costa: The Hi-
story, saith he, of the Original and
Progress

Progress of Ecclesiastical Revenues by *Ferom à Costa*, is no more than a Repetition of all that hath been said in the Treatise of Benefices by *Pad. Paolo*, tho' *Ferom à Costa* pretends it is a Supplement. It is true indeed, that he speaks of the Original of private Masses, and of the Privileges call'd the Monarchy of *Sicily*, of which *Pad. Paola* makes but just mention, but these Particulars, with some others which he handles, make not much to the Purpose: Besides that he draws his Proofs often from a Cartulary only of some particular Monastery, from which no general Conclusion can be made.

So that those who have read the Treatise of Father *Paul* will find nothing new or differing from this of *à Costa*, except only a great deal of Confusion: For it is a Work so ill digested, that the chief Thing which the Author seems to have propos'd to himself has been, to destroy all the admirable Method which the other hath throughout observ'd with so much Exactness.

C O N-

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are not apt to overcharge themselves with reading much at a time, and the better to trace out the Order and Consequence of the several Heads, which all deserve to be read with the strictest Attention.

As for my own Notes and Observations, I flatter my self with the favourable Reception they will meet with from the Publick; such a Reception, I mean, as is due to Truth; seeing they contain a Verification of all the Facts which Pad. Paolo relates, and which serve as authentick Proofs of his Integrity, and of his having asserted nothing for which he has not sufficient Vouchers.

When we look into the Histories of Matth. Paris, Platina, Panvinius, and Baronius, and find what is there recorded of some Popes, Pad. Paolo, whom the Cardinal Pallavicino wou'd make pass for an impious Imposture, and for one who makes it his Profession to vilify all Popes, will be allow'd to express himself with great Modesty of some of them, and particularly Innocent IV. whom all the Writers, both ancient and modern, describe as a roaring Lion, who sought nothing but

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how to devour all the Benefices that came within his Reach.

And when we read that St. Thomas, the Cardinal Cajetan his Commentator, with many other great Divines and Lawyers, determine with so much Clearness, that the Pope is not the Proprietor of the Goods of the Church, but only the principal Dispenser of them, Pad. Paolo must also be allow'd not to have embrac'd this Opinion from any Motive of Hatred to the Popes, but from a Sense of its being conformable to the Doctrine of the Fathers and the sacred Canons.

In fine, whoever will read what Mat. Paris, the Monk, writes of the famous Robert, Bishop of Lincoln, and of several Archbishops of York, who were cruelly treated by the Popes Innocent IV. and Alexander IV. will (3) find very near Resemblance betwixt the Persecutions rais'd against these two Bishops, and that by Pope Paul V. against Pad. Paolo, who defended, very near, the same Cause.

(3) See the Notes on Chap. 35.

Note, That in the *English* Translation the Method of the *French* Translation in the Division of Chapters is observ'd, there being no other Variation from the *Italian*.

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b 4

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had sufficient for the Tabernacle, refus'd to receive any more Gifts from the People of *Israel*. 5. The *Levites* had no other Estates but the Tenth. 6. If the Clergy hold now the Place of the *Levites*, why are they not contented with the Tenth?

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2. After the Church Estates had been divided into Benefices, the *Spolia* of the Beneficiary, viz. the Goods he dy'd possess'd of, went to the Community of the Clergy or to his Successor.
3. In several Countries the Beneficiaries could devise by Will the Fruits of their Benefices.
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5. The Exortions of the Collectors of these *Spolia*.
6. *Charles VI.* King of *France* takes the *Spolia* of the Bishops and Abbots from the Pope.
7. *Paul III.* by a Bull declareth, that the *Spolia* of all the Beneficiaries of the World belong to the Catholick Chamber.
8. Pope *Pius IV.* carries this yet higher.
9. The Clergy of the Kingdoms of *Castile* are exempt from the Exaction of the *Spolia*.
10. Upon what this Right is founded.

THE



T H E

INTRODUCTION.



H A T ancient Fervour of Devotion, which, for so many Ages, with mighty Influence both on Princes and private Men, had prevail'd over the Christian World to make those vast Donations to the Church, being now not only sensibly abated, but, with it, the exemplary Care of its Ministers, in the pious Distributions of those Bounties; and their Successors, the Churchmen, in these latter Ages, having
turn'd

turn'd that Care into another, no less engaging, and in which they are indefatigable, of getting all they can, and defending what they have got, we must not be surpriz'd, if, in so great a Scarcity of faithful Stewards in the Church, it has been thought necessary to restrain these Acquisitions by Laws ; or that all the good Men should be warm'd with a Zeal to see the Administration of the Temporal Riches of the Church restor'd to some Degree of Reformation at least, if not to its primitive Strictness.

Its present Corruptions have not crept into the Clerical Order, or grown to that exorbitant Pitch in an Instant ; but from a State of Perfection (I had almost call'd Divine) the Churchmen are by Degrees sunk, as themselves confess, into a State of Impurity, visible to all the World, and by some held incapable of Remedy.

Not but with the same Portion of Divine Favour, which has shone so bright on
our

our Predecessors, we need not despair of seeing the like Wonders of Sanctity produc'd in our Days. But as we have been sinking for Ages into so low a State of Corruption, we must be contented to take the same Steps in re-ascending to regain, if possible, that Degree of Perfection which the Church once enjoy'd.

And seeing this is not to be obtain'd without knowing in what Method the Temporalities of the Church were at first manag'd ; and how, and by what Degrees this good Government came to fail, it will be necessary in the first place, to enquire into the Means of the Church's acquiring at first her Temporal Riches, and the Method she us'd upon every Mutation that happen'd, in appointing Officers to distribute or preserve them.

This will discover to us the Obstacles, which hitherto have retarded a happy Reformation ;

formation ; and instruct us in the Means
to surmount them.

Thus much for our Design in the present
Treatise of Beneficiary Matters ; a Sub-
ject so copious, that it is not easily to be
exhausted.



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T H E
H I S T O R Y
Of ECCLESIASTICAL
Benefices and Revenues.

C H A P. I.



FROM the Time that JESUS CHRIST first convers'd in the World, the Church began to have Revenues ; which first arose purely from the Offerings of devout Persons, and were distributed by an appointed Officer, only to two Uses ; the one, of our SAVIOUR himself, and his Apostles, who preach'd the Gospel ; the other, of the Poor. This appears clearly in St. John, who says, that Judas kept the (a) Purse, and made the Disbursements, providing all Necessaries for the Community, and distributing the rest to the (b) Poor,

(a) Loculos habens, ea quæ mittebantur portabat. Cap. 12.

(b) Loculos habebat Judas, quod dixisset ei Jēsus: Eme ea quæ opus sunt nobis ad diem festum; aut egenis, ut aliquid

daret, Cap. 13. Quia de egenis pertinebat ad eum, Cap. 12. *Because this was his Business.*

Loculos is properly what is call'd the Poor's-Box.

according to the daily Directions he receiv'd from our L O R D.

St. *Augustine* observes, That tho' JESUS CHRIST, who had Angels for his Servants, had no Occasion for Money, he nevertheless thought fit to make use of it, that he might leave to his Church the greatest Authority upon Earth, (his own Example) of her Duty ; and how she ought to enjoy, and how to employ what she possesseth.

And if this holy Institution be not observ'd in our Days, we ought to consider that the holy Scripture, both for our Instruction and Consolation tells us, That *Judas* was a Thief, that he robb'd the Apostolick College, and converted the Money to his own use ; and that his boundless Avarice, and Impiety, carried him, at last, to betray, even, the Person of our L O R D himself, for Money.

If therefore, either History of past Times, or Observation of the present inform us, That a great Part of the Ecclesiastical Goods is employ'd in Uses very different from pious, and that some of the Ministers of the Church so far from contenting themselves with ordinary Sacrilege, and appropriating to themselves what belongs in Common to the Church and the Poor, are become such Invaders of sacred Things, that they set to Sale even Spiritual Graces for Money : It is not to be ascrib'd to any particular Fate on this, or the forgoing Ages, but to the Methods of the Divine Wisdom in exercising the Righteous ; seeing the Church from its Infancy, and through all Ages, hath been subject to the same Imperfections.

All that remains incumbent on us is, every one in his Station to contribute towards a Remedy of these Evils, by Prayers, where other Means are denied him ; and by a courageous Opposition to these Abuses, where it can be effectual. For tho' *Judas* met

met not his Punishment from Men in a common Way, because those who ought to have inflicted it, were his Accomplices, yet the Divine Providence fail'd not to point out what Punishment he deserv'd, by disposing him to be his own Executioner: As a Warning and Admonition to Governors and Guardians of the Church in succeeding Ages.

C H A P. II.

AFTER the Ascension of our SAVIOUR into Heaven, the Apostles continu'd the same Method in the Church of *Jerusalem*, of gathering Money for the Maintenance of the Ministers of the Gospel, and Relief of the Poor: And the Believers, besides the Offerings that were gather'd, sold all their Estates, and put them also into the Common-stock: So that no Distinction was made betwixt the Goods of the Church, and those of every true (a) Believer: Which is yet practis'd in some of the Religious Houses, who preserve their first Institution.

Now the primitive Christians had the less Conflicts with human Nature in parting with their worldly Goods, and bestowing them in Alms, from the Contemplation of the Uncertainty in which JESUS CHRIST left them, as to the Duration of this

(a) Omnes qui credebant erant pariter, & habebant omnia communia. Possessiones & substantias vendebant, & dividebant ea omnibus prout cuiq; opus erat, *Act. Apost. 2.*

Nec quisq; eorum quæ possidebat aliquid suum esse dicebat: Sed erant omnia illis com-

munia. ----- Nec quisquam inter illos erat egens, quotquot enim possessores agrorum aut domorum erant, vendentes afferebant pretia eorum quæ vendebant: Dividebatur autem singulis prout cuiq; opus erat, *Act. 4.*

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World, and the Expectation they liv'd in of its speedy Dissolution (*b*): Or at least, they enjoy'd it with less Sollicitude, as not knowing how long it was to last; and in the full Persuasion that the Form and Figure of this World, and this present State of Life would, however, suddenly be chang'd and pass away (*c*). Contemplations like these, and which were so apt to make Men serious, contributed still more to the Frequency of their Offerings.

But the Custom of having no Property in Goods, which indeed introduced a levelling State among them, so as no Man was either rich or Poor, prevail'd no farther than in *Jerusalem* itself; nor even continu'd long there. For we find, that 26 Years after the Death of our SAVIOUR, Property was again distinguish'd; and that no Man who had any thing of his own was allow'd a Support out of the Common-stock; which in this, and the other Churches, arising from the Oblations, was applied to the Use of the Ministers of the Church, and of the Poor. Wherefore *St. Paul* order'd, that the Widows who had Relations, should be maintain'd by them, and not be a Burden upon the Church; that She might the better be able to supply the Necessities of those who were truly Widows (*d*), and destitute; that is to say, both Widows and Objects of Charity.

(*b*) Scire enim debetis (*saith St. Cyprian*) ac pro certo credere, occasum seculi, atq; ante Christi tempus appropinquasse, *Ep. 58. ad Thibart.* Lanctantius adds, *That all those who had made Computations of the Time, grounded on Scriptures, and prophane History, declar'd that the World could not last longer than 200 Years.* Omnis expectatio non amplius quam ducentorum

videtur annorum, *Cap. 25. lib. 7. Instit. Divin.*

(*c*) Præterit enim figura hujus mundi, *1 Cor. 7.*

(*d*) Si quis fidelis habet vi-
duas, subministrat illis, & non
gravetur Ecclesia ut iis, quæ vere
viduæ sunt, sufficiat, *1 Tim. 5.*

This Explanation is drawn from the same Chapter of St. Paul, which saith, Quæ vere vidua est, & desolata.

And

And on the first Day of the Week, call'd *The Lord's-Day*, the Faithful met together, and every one made an Offering of what he had set apart out of his Week's Gains, for the Publick Necessities (e).

(e) Per unam sabbati (*saith* | se seponat, recondens, quod ei
be) unusquisq; vestrum, apud | bene placuerit, 1 Cor. cap. ult.

C H A P. III.

TH E Charge which JESUS CHRIST had committed to *Judas*, was, after our SAVIOUR'S Ascension, exercis'd by the Apostles themselves, *but* for a very short Time only. They soon grew sensible, they should want Leisure for this, and the other Duty of preaching the Gospel (a), from the Murmurs and Disorders among the Faithful about the Manner of Distributions (b); in which great Partialities were pretended by such as thought themselves had too little, or that others had too much; an Evil incident to all Times, upon the same Occasions.

Reserving therefore to themselves the more important Charge of preaching and teaching (c) the Gospel, they committed the Care of their Temporals to other Ministers (d). Which indeed is the Reverse of what is practis'd in our Days: Wherein the greatest

(a) Dixerunt, non est æquum |
nos derelinquere verbum Dei,
& ministrare mensis, *Act. 6.*

(b) Factum est murmur Græcorum adversus Hebræos eo quod despicerentur in ministerio quotidiano viduæ eorum. *Ibid.*

(c) Nos verò orationi, & ministerio verbi instantes erimus. *Ibid.*

(d) Considerate ergo, viros ex vobis boni testimonii septem, plenos Spiritu Sancto, quos constituamus super hoc opus. *Ibid.*

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Prelates apply themselves to the sole Government and Care of their Temporals, leaving the other Part of their Function of teaching the Word of G O D as a lesser Care to the Monks, or Priests of the lowest Order in the Church.

These new Ministers instituted by the Apostles for the Management of their Temporal Affairs, were * fix in Number, chosen by the whole Body of the Faithful, and call'd Deacons : And wherever the Apostles founded any Churches, they there establish'd Ministers under that Title, and used the same Form and Solemnity in their Ordination, as in that of Bishops, Priests, and other Ministers of the Church, with a Preparation of Fasting and Prayer before they proceeded to take the Votes of the Faithful (e) upon Elections.

And this Order, of admitting none to any Ecclesiastical Function, but by Election of all the Faithful in a General Assembly, was inviolably observ'd, and so continued for about 200 Years : The Ministers of the Church, and the Poor subsisting all that while out of the Common-Stock, which had no other Fund than the Offerings of the Faithful at their Devotions : But they were so abundant, that the Charity of those Times had no other Bounds, than what every one could spare from his Necessities.

So that when the Abilities of one City were more than sufficient to supply the Necessities of its own Church, Collections were there made also for other Churches that were Poor : Thus we find St. James, St. Peter, and St. John, when they receiv'd St. Paul and St. Barnabas as Companions in the Evangelick Ministry, recommended to them a Gathering for

(e) Hos statuerunt ante conspectum Apostolorum, & orantes imposuerunt eis manus. *Ibid.*

the poor Church of *Hierusalem* (f) : St. Paul himself telling us, he went through the Churches of *Macedonia*, *Achaia* (g), *Galatia*, and *Corinth* (h), to solicit their Charity : And this was observ'd even after the Death of the Apostles.

At *Rome*, where the greatest Wealth abounded, the Offerings indeed were so large, that about the Year 150, they serv'd not only to maintain the Clergy and the poor Christians of the City, but to contribute largely to the neighbouring, and more remote Churches, as well as to the Relief of great Numbers of Christian Captives in the several Provinces, and of such as were condemn'd to the Mines.

A Remarkable Instance of these large Contributions, was that of *Marcion*, about the Year 170, who made an Offering of 500 Drachmas of Gold at one Time, in the Church of *Rome*. But because he held certain unsound Doctrines in Matters of Faith, she expell'd him out of her Congregations, and return'd him all his Money, believing she should have been polluted, in keeping the Money of a Heretic.

Afterwards the vast Increase of her Wealth, from the Year 220 began to be look'd upon with an envious Eye, even by the Emperors themselves, and gave occasion to *Decius* the Emperor, to seize the Person of St. *Lawrence* a Roman Deacon, in hope to have made him-

(f) Discipuli prout quisque habebat, proposuerunt singuli in ministerium mittere habitantibus in Judæa fratribus, quod & fecerunt, mittentes ad seniores, per manus Barnabæ, & Sauli, *Act. 11.*

(g) Probaverunt Macedonia & Achaia collationem aliquam

facere in pauperes sanctorum qui sunt in Jerusalem. - - - - Cum consumnavero, & assignavero eis fructum hunc per vos proficiscar in Hispaniam, *Rom. 15*

(h) De collectis autem quæ sunt in sanctos, sicut ordinavi Ecclesiis Galatiæ, ita & vos facite, *Cap. ult. 1 Cor.*

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self Master of the immense Treasure of the Church (1), which he imagin'd to have been vastly increas'd, and laid up *there* ; but was disappointed by the Fore-sight of the holy Man, who fearing the Avarice of the Tyrant, and the Persecution that was then imminent, distributed it all at once, as had been usual when the Church was threatned with the like Calamities.

In Effect most of the Persecutions which It suffer'd from the Death of the Emperor *Commodus*, arose from the same Cause ; for when the Princes, or their Captains of the Guards wanted Money, they found no shorter Expedient for raising it, than by seizing the Estates of the Christian Church.

(1) St. *Prudentius* introduceth an Officer of *Decius*, thus speaking to St. *Lawrence*: *Quod Cæsaris scis, Cæsari da, nempe justum postulo; ni fallor, haud ullam tuus signat Deus pecuniam.* *Viz.* Give to Cæsar what thou knowest to be his. I ask what is just, for if I mistake not, thy GOD coins no Money. *In lib. de Coronis,*

C H A P. IV.

AS the Churches became rich, the Clergy became so much more at Ease, that some of them, not contented with a Subsistence in Common, began to affect living separate in Houses of their own, and to have each their Allowance paid in Money daily, or monthly, or for a longer Time ; a Method which however it fell beneath the Primitive Perfection, was yet tolerated by their Superiors.

But the Disorders ended not here, for the Bishops ceasing to make the usual Distribution to the Poor, reserved them to their own Use. Thus enrich'd
with

with the publick Spoils of the Church, and giving themselves up to all the Methods of encreasing them, even to Usury itself, they quite abandon'd the Doctrine of CHRIST.

And St. Cyprian having lamented this *to be the* Condition of Affairs in his Time (a), concludes, That GOD permitted this great Persecution under the Reign of *Decius*, to purge his Church from Corruption : It having always been the Divine Method to reform, either by the gentle Remedies of lawful Magistrates, or when the Corruptions have spread too far, by the Scourge of Persecution.

But tho' the Church were now possess'd of so much Wealth, She had not yet attain'd to any real Estates, or Goods immoveable ; both because their firm expectation of the End of all things so near approaching, had lessen'd their Taste, and made them regardless of the things of the World, which they look'd upon both as transient, and encumbering in their Flight to Heaven ; and that also, by the *Roman* Laws, no Persons were permitted to give or bequeath by Will real Estates to any College, Society, or Corporation (b) ; nor these to accept them without the Approbation of the Senate, or the Prince.

(a) Episcopi plurimi, quos & hortamento esse oportet ceteris & exemplo, divina procuratione contempta, Procuratores rerum secularium fieri, derelicta Cathedra, Flebe deserti, per alienas Provincias oberrantes, negotiationis quaestuosæ nundinas aucupari de Lapsis.

(b) Collegium si nullo speciali privilegio subnixum sit, hæreditatem capere non posse dubium non est. Lege 8 Cod. de hæredit. instituendis.

This Law was made by Dioclesian and Maximian. Anno Domini, 290.

And

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And of this no doubt is to be made, however there are some Letters extant which go under the Names of the first Popes, which give a Reason why the Apostles sold their Possessions in *Judea*, saying, It was from the Foresight the Apostles had, That the Christian Church was not to remain in *Judea*, but to remove among the *Gentiles*: As if the Reason were not expressly set down in these Words of CHRIST to his Church: *Fear not little flock, sell all that you have, and give it to the Poor*, Luke 12. as if *Jerusalem* after it was destroy'd, had not great Numbers of Christians in it again, when it was rebuilt; or that no City among the *Gentiles* where the Christians had any Possessions, had ever been destroy'd.

But without losing time to refute so plain a Falsity, It is a Point out of Dispute, That these Letters were forged and contrived about the Year 800, by those who prefer'd Riches and Luxury (an Example too much observ'd in those Days) to the Apostolick Simplicity, and Moderation, instituted and commanded by JESUS CHRIST.

Indeed during the Confusions, which continued a long time in the Empire after the Imprisonment of *Valerian*, and the loose Observance of the Laws in those times, especially in *Africk*, *France* and *Italy*, some People's Zeal took hold of that Opportunity to bestow also real or immoveable Estates on the Church, which were all confiscated in the Year 302 by the Emperors *Dioclesian*, and *Maximian*, except in *France*, where *Constantius Chlorus*, who govern'd there, through an Effect of his Goodness, hinder'd their Decree from being executed.

But these Princes having renounc'd the Empire, *Maxentius* 8 Years after restor'd to the *Roman Church* all its Possessions, a little after that she found the same

same Favour from *Constantine* (c) and *Licinus*, having granted the free Exercise of Religion to the Christians, and allow'd Congregations of the Clergy, which in *Greek* were call'd *Churches*; made them also capable of acquiring fix'd Revenues, or immoveable Estates, throughout the whole Empire, either by Will or Donation; with an Exemption from all Services that were personal, that they might have more Leisure to attend the Duties of Religion.

(c) *Lib. 4. Con. de Episcopis & Ecclesiis.* Habeat unusquisque licentiam sanctissimæ Catholicæ [nempe fidei, religionis, aut Ecclesiæ, a way of speaking usual in Eusebius] venerabilique Concilio, decedens, bonorum quod optavit, relinquere. Non sint

Cassa Judicia: Nil est quod magis hominibus debetur quam ut supremæ voluntatis, postquam aliud velle jam non possunt liber sit stilus, & licens quod iterum non redit arbitrium. Anno 321.

CHAPTER V.

IT was not till long after this, that the Custom prevail'd of giving or bequeathing Estates to particular Purposes, such as of Buildings of Piety, providing Marriage Portions, maintaining Orphans, &c. or yet of giving with a Condition annex'd, of saying so many Masses, or other Divine Services. But before they gave or bequeath'd absolutely, and the Gift or Legacy was thrown into the Common-stock, which was the Fund appointed to defray all pious Works. So true it is, That the ancient Estates of the Church were not dedicated to any particular Use of Piety; but it is not therefore true, that they may be laid out at the Pleasure of those with whom they are entrusted; because they are

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are really given to a general Design of Piety and charitable Works.

The Exemptions of the Clergy from the publick Contributions (a), must be own'd to have been one occasion of the great Encrease of Wealth to the Church: Which was every where inviolably observed, equal to the Satisfaction both of the Princes and People; and which turn'd in no sort to the Publick Prejudice.

For seeing the Goods of the Church belong properly to People of the lowest Condition, those only were exempted, who had nothing of their own, and those only contributed who were able: A Method which carry'd the greatest Equity in it; seeing that to exempt him who hath not a Competency for Life, is not oppressing others.

But we are not thence to infer, That it were as reasonable for Princes to continue the same Bounties to the Church, now that It is become so rich, that It possesseth a fourth Part of all Estates; which is doubtless more than is left for all the rest of the People (1): And these Estates being no longer laid out upon the Poor, To exempt the Clergy would be a direct Contradiction to the Practice of all good Princes, and a means to make the Burdens which the Rich ought to bear, fall upon the Poor (2):

(a) *Lib. 2. Theod. de Episc. & Ecclesiis*, Qui divino cultui ministeria religionis impendunt, id est, qui Clerici appellantur, ab omnibus omnino muneribus excusentur, ne sacrilego Livore quorundam a divinis obsequiis avocentur. *Constant. mag. l. 9. Cod. Theod. eodem titulo.*

(1) Seeing the Clergy make up but a very small Part.

(2) *Phil. de Comines*, whose Piety was as great as his Expe-

rience in Affairs, expressly blames the Bounty of *Lewis XI.* to the Church. Saying, He gave much to the Church, but he had better have given less; for he took from the Poor, to give to those who had no need. And in another Place, He gave goodly Lands to the Church, but this Gift was made void; for the Clergy had too much. *Cap. ult. Lib. 5, & 7. Lib. 6.* of his Memoirs.

So

So that the Princes of our Times want not the Piety of their Predecessors, yet Circumstances make the Case very different ; for the Church would now also be exempted if she were poor, and she never would have been exempted, had she been rich.

C H A P. VI.

THE same exceeding Devotion in Princes and People, which produced the vast Encrease of Wealth to the Church, grew at last to excite an extreme Thirst in her Ministers to improve it ; from which even those of the clearest Intentions among them were not wholly exempt.

For since the Distribution of these Goods turn'd to the Glory of GOD, and the publick Good, they concluded that the more the Church had to bestow, the more those Ends would be answer'd : Thus in the View to so great a Merit, they set themselves with all their Skill and Industry about so pleasing a Task, without confining themselves to the Lawfulness or Justice of the Methods ; but if the Church were enrich'd, by whatsoever means, they thought they made a pleasing Sacrifice to GOD.

And certainly from these indiscreet Zealots, and the want of a due mixture of Discretion, have flow'd innumerable and incurable Mischiefs : For they imagining every thing justifiable (1), that is done with a View to Religion, by acting both against that, and even of Humanity itself, have often set the World in dreadful Combustions.

(1) *Devitantes hoc, nequis | non solum coram Deo, sed etiam
nos vituperet providemus bona, | coram hominibus, 2 Corinth 8.*

Thus

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Thus it happen'd when first the Church was allow'd to acquire real Estates; some religious Persons entertaining an Opinion, That it was a Service to GOD, to disinherit the Children and Heirs of Families, in order to give their Estates to the Church, omitted no Artifice to persuade Widows, Maids, and other easy People, ready to receive any Impressions to deprive their own Families, and make the Church their Heirs (2).

And this Distemper grew to such a height, that the Prince was oblig'd to provide against it, by an Ordinance made in the Year 370. which in truth did not put the Churches absolutely into an Incapacity of encreasing their Estates, but forbade Churchmen only to frequent the Houses of Widows and Orphans, or to receive any Gifts by Will or Donation from Women immediately, or by any 3d Hand (3).

Which Ordinance St. *Jerom* acknowledges to have been a good Step towards the Remedy of a Corruption, which had taken too deep Root among the Clergy (4), namely an immoderate craving after temporal Riches.

(2) *Charlemaign* made a Law to forbid the Churches to receive any Gifts, which disinherited Children and Kindred.

(3) Ecclesiastici aut ex Ecclesiasticis Viduarum ac Pupillorum domus non adeant, sed publicis exterminentur judiciis, si eos Affines earum vel propinqui putaverint deferendos. Censemus etiam ut memorati nihil de ejus mulieris, cui se privatim sub prætextu religionis adjunxerint, liberalitate quacunq; vel extremo judicio possint adipisci, & omne in tantum inefficax sit, quod alicui horum

ab his fuerit derelictum, ut nec per subjectam personam valeant aliquid vel donatione vel testamento recipere. *Lege 20. Cod. Theod. de Episc. & Eccles.*

(4) Audio in senes, & anus absq; liberis quorundam turpe servitium. Ipsi apponunt matulam, obsident lectum, purulentiam stomachi & phlegmata pulmonis manu propria suscipiunt. *In Epist. ad Eustoch.*

Illæ quæ sacerdotes suo videntur indigere præsidio eriguntur ad superbiam, & quia maritorum expertæ viduitatis præferunt libertatem. *In one of his Ep.*

Yet

Yet this was not found sufficient, without another Ordinance, made a few Years after, That Widows who devoted themselves to the Church, should neither give nor leave by Will any immoveable or real Estates, or Moveables of great Value (a). Of which it is discours'd more at large elsewhere.

Nor were these excessive acquisitions pleasing to St. *Augustine*, who liv'd in those times, and declar'd himself freely upon this Head, that he thought it more reasonable that Inheritances should be left to the next of Kin than to the Church (5).

Which Opinion he confirm'd by refusing Gifts that were left to his own Church. He likewise declar'd, That a due Ministry in the Church did not consist in distributing much, but in being well applied. He blam'd a Method of encreasing the Estates of the Church by making Purchases of real Estates with the overplus of its annual Rents. He never would suffer this Abuse in his own Church, declaring against it in his Sermons, and that he had rather live on the Offerings and Collections that were made in the primitive times of the Church, than to be charg'd with the care of an Estate, which would interrupt the Leisure that was necessary to the right discharging the principal Duty of a Bishop: Adding, that he was ready to renounce all

(a) Ipsa tantum prædiorum suorum redditus consequatur, de quibus fervandi, abalienandi, donandi, distrahendi, relinquendi, vel quod superest, vel cum in fata concedit, & libera ei voluntas est, integra sit potestas. Nihil de monilibus, & supellectile, nihil de auro, argento, cæterisque claræ domus insignibus sub religionis defensione consi-

mat: Sed universa integra in liberos, proximos vel in quoscunque alios arbitrii sui existimatione transcribat. Ac si quando diem obierit, nullam Ecclesiam, nullum Clericum, nullum Pauperem, scribat hæredes. L. 27. Cod. Theod. Anno 390.

(5) Possid. in vita August. cap. 24.

Possessions

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Possessions in the World whatsoever, provided a Maintenance were allotted to the Servants and Ministers of G O D, according to the old Testament, (b) either in Tythes or in other Alms: so as they might not be diverted from their Duty, by the Cares inseparable from temporal Concerns.

Yet neither the excellent Exhortations of the Fathers, nor the Laws of Princes were of Force to set any Bounds to the growing Wealth of the Church, but that it exceeded all Measure.

The ancient manner indeed of administering and dispensing these Estates, was still kept up, and so continued until the Year 420. without any remarkable Alteration. All the Alms, and Revenues arising from real Estates, were yet in common, and under the Care of Deacons, who had for their Assistance Sub-deacons, and other Stewards employ'd in providing for the Maintenance of the Clergy and the Poor. The College of Priests, and the Bishops chiefly were the Supervisors; and an Account of all Receipts and Disbursements was kept. So that the Bishop order'd all the Distributions, the Deacons executed his Orders, and all the Clergy were maintain'd out of the Revenues of the Church, tho' they were not all in Functions.

St *John Chrysostome* maketh mention, That in those times the Church of *Antioch* fed more than 3000 Mouths. It is also certain, That the Church of *Jerusalem* defray'd the Expences of an infinite Number of People, who resorted thither from all Parts.

(b) Omnes decimæ terræ five de frugibus, five de pomis arborum Domini sunt. *Levit. ult.*

Primitias ciborum nostrorum, & poma omnis ligni, vindemiæ quoq; & olei, afferemus sacerdotibus. *Ipsi Levitæ decimas,*

accipient operum nostrorum. 2 *Esd. 10.*

These Tenths and First-fruits as being of the *Jewish* Institution, were abolish'd by the new Law.

And

And we find in History, that *Atticus* Bishop of *Constantinople*, assisted the Church of *Nice* in *Bithynia*, on occasion of a Concourse of poor People to that City, wherein were numbred ten thousand in one Day.

CHAP. VII.

BUT after *France*, *Spain* and *Africk* were erected into two distinct Kingdoms from the Empire, the Posterity of *Theodosius* extinct, and *Italy*, by the successive Inundations of divers barbarous Nations, made subject, at last, to the Power of the *Goths*, and the Eastern and Western Empires torn asunder from each other; the Government of the Churches also took another Form. The Eastern Church kept still the establish'd Usage of living in Common: But in the Western, the Bishops, from being Supervisors and Administrators of the Revenues, began to use them as if they were their own; and to assume a sort of absolute Power in their Disposition. Hence follow'd great Confusions in the Application of these Estates, to the great Detriment of the Fabricks, which fell to Ruin; and of the Poor, who were left destitute and unprovided for.

It was therefore order'd (a) in the Western Church about the Year 470, That a Division should be

(a) Pope *Gelasius* in Canon *quatuor*, 27, 12. q. 2. which is in the Year 494, sheweth sufficiently that this Usage was establish'd some time before. Quatuor autem tam de redditu, quam de oblatione fidelium, prout cujuscunque Ecclesie facultas admittit, sicut dudum rationabiliter est decretum, convenit fieri portiones, quarum sit una Pontificis, altera Clericorum, tertia pauperum, quarta fabricis applicanda. *Vide Canonibus 23. eadem quest.*

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made into Four Parts : The first was to go to the Bishop, the second to the rest of the Clergy, the third to the Fabrick of the Church, in which, besides that properly so called, was also comprehended the Habitation of the Bishop, of the other Clergy, of the Sick, and of the Widows : And the Fourth Part went to the Poor * : Which in most Churches, according to *St. Gregory*, included only the Poor of the Place : For Hospitality was incumbent only on the Bishop, who was oblig'd, out of his own Share, to lodge all the stranger Clergy, and to defray the Expences of the Poor which came from abroad.

Yet it is not to be suppos'd, that this Division was made into four Arithmetical and equal Parts, but only Proportional : For the Number of Clergy in some Churches requir'd a larger Share than the Poor ; whereas the Contrary fell out in other Churches, where the Poor were more numerous than the Clergy. And as in great Cities the Expence of the Fabrick was greater than in the lesser, every Church, which agreed to this Division into Four Parts, settled it in a different Proportion, as Circumstances requir'd.

I know that some have attributed this Division to Pope *Silvester*, who liv'd 150 Years before, grounding their Opinion on some Writings which have been forg'd since, with little Honour to those Times, which lay not then under so corrupt a Character.

In the *Theodosian* Code we find a Law of *Constantinus* and *Julian*, bearing Date in the Year 359, which

* Whereas before, the first | when all was in common a
Part was for the Poor, viz. | mong them.

exempt

exempts the trading Clergy from paying Duties (b), because all they gain'd went to the Poor. So far they were from dividing the Revenues of the Church among themselves, that even their Gains they threw into the Common-stock. But about the Year of our L O R D 500, however the Revenues had been divided into Four Parts, yet the Funds out of which they arose, whether Immoveables, Oblations or Alms, were brought under no Division themselves, but only the growing Rents continu'd under the Direction of the Deacons and Sub-deacons, jointly.

A Recapitulation of this Matter seem'd the more requisite here, because the following Ages will present us with a Form of Government so intirely different from what has been describ'd.

We have already set forth the Method instituted by the Apostles, for electing Ministers in the Church, viz. That the Bishops, Priests, and other Ministers of the Word of G O D, as also the Deacons, who had the Administration of the Temporals, should be elected by the whole Body of the Faithful, and then ordain'd by the Bishop, by Imposition of Hands; which continued without Alteration. The Bishop was elected by the People, and ordain'd by the Metropolitan *, in the Presence of all the Bishops of the same Province, or at least, with the Consent in

(b) L. 8. Cod. Theod. de Episc.

Ecclesiis Anno 346. Juxta sanctionem quam dudum emississe perhibemini, & vos & mancipia vestra nullus novis conditionibus obligavit, sed vacante gaudebitis.

Præterea neq; hospites suscipietis, & si qui de vobis alimonie causa negotiationem exercere volunt, immunitate potestentur.

St. Jerom exclaims against these Privileges, *Negotiatorem Clericum*, saith he, & *ex Incepit divitem, ex ignobili gloriosum, quasi quandam pestem fuge* ---- *Cui nundinae, fira placent, & plateæ, ac medicorum tabernæ* Ep. 2. ad Nepotianum.

* Vide Appendicem ad Capitulum pag. 1372. cap. 4.

Writing of those who could not be present. Or if any Accident hinder'd the Metropolitan from attending, the Ordination was perform'd by three of the neighbouring Bishops, with the Consent of him and of the other absent Bishops. And afterwards, when to improve this Form of Government, several Provinces were made subject to one Primate, his Consent also was requir'd to the Ordination.

The Priests, Deacons and other Clergy were also presented by the People, and ordain'd by the Bishop; or else nominated by the Bishop, and with the Consent of the People ordain'd by him. No Person that was unknown was admitted, nor did the Bishop ever ordain any, but such as were approv'd, or indeed propos'd by the People.

Whole Concurrence was thought so necessary, that the Pope, *St. Leo*, proves at large the Invalidity of a Bishop's Ordination without it (c). In This all the Fathers of the Church in those times agree. And *Constance* being chosen Bishop of *Milan* by the Clergy, *St. Gregory* thought he could not be consecrated without the Consent of the Inhabitants, who being at that time retir'd to *Genoa*, to avoid the Ravages of the barbarous Nations, a Message was first sent to them at his Instance, to know their Pleasure. A Thing which may justly be recommended to the Observation of this Age, where we are taught that Elections, wherein the People should pretend to have any Share, would be unlawful and

(c) Cum ergo de summi sacerdotis electione tractabitur, ille omnibus præponatur quem Cleri plebisq; consensus concorder postulent, ita ut si in aliam forte Personam partium se vota diviserint, metropolitani Judicio is alteri præteratur qui majoribus & studiis juvatur & meritis: Tantum ut nullus invitatus, & non petentibus ordinetur, ne Civitas Episcopum non optatum aut contemnat, aut odierit, & fiat minus religiosa quam convenit cui non licuerit habere quem voluit.

Epist. 12. ad Anastasium Thes-salonicensem, cap. 5.

invalid:

invalid : So chang'd, and so inverted are Customs, as to make Good and Evil change their Names, calling that lawful which was formerly reputed detestable and impious ; and that unjust, which had then the Reputation of Sanctity.

Sometimes a Bishop who was superannuated, nam'd his Successor ; as St. *Augustine* nam'd *Eradius*. But neither was this Nomination of any Force without the Approbation of the People. All These are Particulars as necessary to be well understood, as they are to be remember'd, in Order to confront the Practices of succeeding Ages with these Primitive Examples.

C H A P. VIII.

A Little Digression will here be necessary, to take in one of the most memorable Causes, and Springs of Wealth to the Church, which happen'd about the Year 500. This was an Institution of Religious Colleges call'd *Monasteries*.

Monachism began in *Agypt* about the Year 300(1) occasion'd by the Persecutions of those who fled thither for Refuge. From whence it pass'd into
Greece,

(1) There were Monks in *Agypt* long before, according to *Cassian*. Cum in primordiis fidei pauci quidem, sed probatissimi, Monachorum nomine censerentur, qui sicut a beatæ memoriæ Evangelistæ Marco, qui primus Alexandrinæ urbi Pontifex præfuit, normam suscepere vivendi, *Sc. Lib. 2. de Instit. Cen. b. cap. 5.* Ne illa Ecclesia, quæ inter ipsa Evangelii Principia B. Marcum, B. Petri Apostoli discipulum, in omnibus utiq; doctoris sui magister o consonantem habuit fundatorem, *Sc. Leo mag. Epist. 77. cap. 4.*

Greece, where St. Basil about the Year 370. gave it the Form it has preserv'd ever since in that Country. And about the Year 350, Athanasius brought it into Italy: But at Rome, and in the Parts adjacent, it found few Followers, and little Encouragement, until the Year 500, when St. Equitius, and St. Benedict gave it a more lasting Form, and made it spread. Yet the Institution of St. Equitius fail'd soon, but that of St. Benedict extended itself all over Italy, and even beyond the Mountains.

In those Days, and for a long Time after, the Monks were no Ecclesiasticks (2), but Laymen, and in Convents, which stood without the Cities; subsisting on their own Labour in Husbandry and other Trades, and on the Oblations of the Faithful; of all which the Abbot had the Management.

But in the Cities they liv'd on their own Hand-labour, and the Share which was allotted them by the Church of that Place. These retain'd their ancient Discipline much longer: And as the Clergy, after they began to share the Goods of the Church among themselves, had lost much of the Reverence

V. Epist. 10. ad Episcopos
viann. cap. 6. St. Antony was the first, who brought the Monks to live in Common. A Proof, That that Life is not inconsistent with Solitude: Which Point Mr. D'Ossat presseth with great strength of Reason, to an Abbot of the Order of Feuillans. A Monk, saith he, who attends Mattins, and other Services, enjoin'd, and employs the rest of the Day in Study, or in some other honest way, is solitary enough, and needs no other Desert but his Convent. And the Ancients, in calling a Convent

Cænobium, and those in Religious discipline Monks, shew, that Solitude may easily be found in Community and Society.

(2) Alia Monachorum est causa, alia Clericorum, saith St. Jerom. And again, Clerici pascunt oves, ego pascor. Epist. ad Heliod.

But tho' the Monastick Life were very different from the Ecclesiastick, it was however a Step to Orders. Sic vive, saith he to a Monk, ut Clericus esse merearis. Epist. ad Rusticum.

they

they had among the People, whose Devotion by that Means was extinguish'd; few continu'd their Bounties to the Church, and there had been an End to all its Acquisitions, if the Monks, by continuing to live in Common, and exercising Works of Charity, had not reviv'd and turn'd all the Stream of the People's Devotion on themselves. Thus they became, in time, very powerful in Inheritances, and Possessions of all Kinds: Every one finding a stronger Invitation to his Charity, as he saw it was then employ'd in maintaining great Numbers of Monks, in educating Youth, and other Works of Piety and Hospitality (3). The Abbot *Trithemius* reckons the Number of Monasteries of *Benedictines* were 15000, besides the lesser Convents. The Monks chose their own Abbot, who govern'd in Spirituals, and had the Disposal of all the Oblations, as well as of all they gain'd by Labour: Afterwards, also He had the Management of the Revenues arising from their immoveable Estates.

(3) *Mezeray* saith in the Life of *Phil. Augustus*, That the Monasteries of the *Benedictines* were as Inns for Receipt of Gentlemen and other Travellers gratis, and Schools to teach their Children.

Another thing contributed much to the Encrease of Monachism, which was, the Means they had found to succeed to their Fathers Estates, which at their Death they left to their

Convent. *Jam eo tempore servor Monastica Religionis tepuerat. Jam unusquisq; in bonis Parentum suorum heres fieri querebat: Unde quidam eorum, quid sibi acquisiverant, in servitium fratrum, & communem utilitatem Loci publicè contradebant.* Chronicon. S. Benigni Divion. Anno 789. Tom. 1. *Spicelegii Acher.* pag. 402, & 403.

C H A P. IX.

BUT after the Year 500, the Bishops being become the absolute Dispencers of the Fourth Part of the Goods of the Church, they began to employ more of their Care on their Temporal Affairs, and to make Parties in the Cities: So that Elections were no longer carry'd on with a View to the Service of G O D, but manag'd by Faction and Intrigues, which often proceeded to open Violence. This gave the first Alarm to Princes, who had hitherto little concern'd themselves, in the Choice of the Ministry; but when the Holy-men of those times began to declare, That G O D had plac'd the Church under their Protection, and that they were answerable by that Divine Commission, to see that the Affairs of the Church should be administer'd under regular and legal Forms of its own. This open'd the Eyes of Princes, and made them capable of discerning how much the Interests of ambitious Clergymen, and the seditious Cabals form'd on these Occasions to obtain the Dignities of the Church, endanger'd the publick Peace, and the Interest of the Civil Government.

Mov'd therefore, partly by Religious Considerations, and partly by Reasons of State, they now began not to suffer the Clergy and the People to determine Elections by themselves, and according to their own Passions. For seeing Men now no longer avoided and fled from Bishopricks, but even made Interest for them with all the Courtship and skilful Solicitations they could use; so great a Change open'd a Way to Factions, and consequently to Seditions, and sometimes Bloodshed at the Instigation of the contending Parties.

Some-

Sometimes the Inconveniencies were no less by Elections falling on People disaffected to the Government, and such as entertain'd secret Correspondence with the Enemies of the State, which, during the Western Confusions, were never inconsiderable: Or otherways, by Elections falling on such who afterwards attain'd to great Popularity, which they apply'd to usurp the Power of the Magistrates, and then to incite the People to support their Innovations.

These Distempers produc'd an Edict, that no Person elected should be consecrated without the Approbation of the Prince or Magistrate, reserving to themselves the Right of confirming the great Bishopricks, such as those in *Italy* of *Rome*, *Ravenna*, and *Milan*, and leaving the Care of the others to their Ministers.

But in those times, as more Regard was had to the answering the true End of good Government in the Church, than to any Appearances, If there happen'd in a City some one of that eminent Merit, that was equally the Inclination both of Prince and People, upon a Vacancy he was consecrated forthwith, without other Formality.

Sometimes Accidents of Wars or Plagues might hasten the Consecration of a Bishop, before the Princes Confirmation were obtain'd (a): As it happen'd in the Case of *Pelagius II.* *Rome* being then besieged by the *Lombards*. But after the Siege was rais'd, that Pope sent *St. Gregory*, who was then Deacon, and afterwards his Successor, to excuse it to the Emperor, and to beg he would confirm what Necessity had oblig'd to be done.

(a) Post Benedictum Papam | bardi Romam per Circuitum
Pelagius Romanæ Ecclesiæ Pon- | obfiderent; nec posset quisquam
tiffex absq; Jussione Principis or- | a Roma egredi. *Warnefrid de*
dinatus est: Eo quod Longo- | gestis *Lombard. Lib. 3. cap. 20.*
In

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In this Manner, that is with the Imperial Sanction, the Popes and Bishops continu'd to be chosen in *Italy* until the Year 750. But in *France*, and other Countries beyond the Mountains, the Royal Authority, and even that of the Mayors of the Palace, appear'd more absolute; for the People, as soon as those Princes concern'd themselves in Elections, desisted intirely and withdrew themselves from them. Good Men acquiesc'd, in Confidence that their Princes would take all the Care that was necessary in that Matter; and ill Men despair'd to bring about their Designs: So that the Kings of *France* had the sole Collation of all the Bishopricks throughout their Kingdom.

Through all the History of *Gregory of Tours*, from the time of *Clouis* the first Christian King of *France*, until the Year 590, we find no Instance of any one Bishop being made in any other Manner than by the Nomination or Consent of the King (b). And St. *Gregory I.* who was made Pope in that Year, writing to the Kings of *France* on divers Occasions, laments that Bishopricks were bestow'd on Men not sufficient for that Charge; beseeching them to choose Men of Probity and Capacity, but without any Objection to the King's Right of Nomination, unless it were want of Merit.

It

(b) Interempto Rustico Caturoci urbis Episcopo, consensus Regis & Civium pari sententia in Episcopatum Desiderii aspiravit. Nam licet suggestio Civium ad Præsules & Principes jam præcesserit, Rex tamen pro hoc amantissima & valde ambenda præcepta dedit, in quibus perspicue agnoscitur, vel quamobrem hunc Rex diligeret, vel quam de eo æstimationem haberet. Tale nimirum de illo Rex civibus & Episcopis, cunctoque populo testimonium dedit, ut jure plebium testimonia regia oracula præcellerent, ac prævenirent. *In vita S. Desiderii Episc. Caturc. cap. 8. tom. 1. Biblic. MS. Labbei, p. 703.* Whence it appeareth, The People chose, but that the Election

It was easy for those Bishops when once they were made without the Authority of the People, to exclude the People also from the Choice of Priests, Deacons, or other Ecclesiastical Ministers, and to transfer that Right to the Prince alone. Some Part of the People having wholly withdrawn themselves from Ecclesiastical Congregations, to attend their domestick Affairs, others to avoid popular Factions, others again, upon finding themselves contemptuously treated by the Bishop, whose Power was grown to an inconvenient Size, by his Wealth, and the Interest he had in his Prince, of whom he held his Bishoprick by Nomination or Confirmation. And sometimes the Prince would name the Persons to be ordain'd, or would commit that Care to the Bishop, especially when he happen'd to be in his Prince's Confidence. And this often brought him to be farther useful, either in making up Differences among the People, or in deciding difficult Causes referr'd to him by the Prince.

lection ought to be confirm'd by the Prince. Which is seen in a Letter of *Dagobert*, reported in the Life of St. *Didier*, viz.

Juxta Civium petitionem, nostram quoq; concordantem in omnibus voluntatem decernimus, ac jubemus ut adjuvante & clamante laudem ipsius Clero, vel Populo, vir illustris, & verus Dei cultor *Desiderius Pontifex* in urbe *Caturci* debeat consecrari, & nostra civiumq; voluntas, quod decrevit in omnibus, in Dei nomine perficiatur, & pontificali benedictione sublimatus, pro nobis, & pro universis ordinibus Ecclesiæ debeat exorare, & acceptibiles Deo

hostias studeat offerre. --- Qua de re, præsentī auctoritate decernimus, ut dictus *Desiderius* Episcopatum in *Caturcensi* urbe præsentialiter suscipiat. Et ut hæc deliberatio voluntatis nostræ firmior habeatur, manus nostræ præscriptione subter eam decrevimus roborare.

1 *Lib. 4. Epist. 53. ad Childbert.* & *tom. 1. Concil. Gall. Epist. 5. ad Brunichildem. Lib. 7. Ep. 5. & tom. 1. Concil. Gall. Epist. 22. ad Brunich. Lib. 7. Ep. 13. & Tom. 1. Conc. Gall. Epist. 27. ad Theodoric. & Theodebert. Lib. 7. epist. 114. & tom. 1. Concil. Gall. epist. 28.*

For

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For the Respect shew'd to Religion in those Days having rais'd the Bishops to a Credit, which was not ordinarily afforded to Magistrates, engag'd them more in these secular Functions than in teaching the Doctrine of CHRIST, in which ignorant Men had thought, at first, consisted their principal Duty. So that to be a worldly prudential Man was a better Qualification for a Bishop, than to be a good Casuist. Which holds good to this Day in that Saying, *That except it be in Places confining on the Infidels, a good Lawyer makes a better Bishop than a good Divine*; which indeed must be allow'd, if the chief Business of a Bishop be to try Causes.

JESUS CHRIST, when he ordain'd his Apostles, told them, *As my FATHER sent me, so send I you*. By which they understood he sent them to teach. But if now every Man be sufficiently instructed, there is no need of any more Teachers; and they ought to quit an Employment grown useless to the World.

Heretofore the principal Care of a Bishop was to teach, his next was to take Care of the Poor; but as the Administration of the Church Affairs came into the Hands of the Clergy, there grew some Remissness in both Duties, and the *Quadripartite* Division came to be arbitrary.

Where the Bishop and Clergy were Men of Conscience, a reasonable Division was made, but where they happen'd to be interested Men, the Poor wanting Protectors, and the Fabrick of the Church Supervisors, these two Portions were in some Places sunk almost to nothing, and all was divided betwixt the Bishop and the Clergy.

And even in Churches where the Division was made with due Proportion, the Administration of the two Parts which was allotted to the Fabrick and the Poor, remaining still in the Hands of the Clergy,

were

were insensibly diminished, to the Advantage of those who had the Management; which is made more evident by the few Instances that are any where to be found of Fabricks having any particular Revenue, or of any Fund remaining for the Poor, except Hospitals, which are of no ancient Institution.

At first the Share of the Clergy was not divided among them, but left to the Discretion of the Bishop, to dispence according to every one's Merit. But afterwards the Priests took upon them to make the Dividend among themselves, excluding the Bishop from that Care; and when they had set out their own Share, in the Direction of which neither the Bishop, nor any other had any hand, they then sub-divided it among themselves. This gave Beginning to every Man's Property, and thus they ceased to live in Common.

But tho' the Revenues were thus divided, yet all the Stock or Fund remain'd still intire, and undivided, under the Direction of Deacons, and Sub-deacons, who receiv'd the Rents, and assign'd them to the Bishop, and to every Priest, in Proportion to their Shares.

In those times the Church Estates were called *Patrimonies*, which I have thought fit by the way to remark, to obviate any Mistake that this Name might signify any sovereign Dominion, or Jurisdiction belonging to the *Roman Church* or the Pope. The Estate of every Family, descending from its Ancestors, was call'd *a Patrimony*. And the Demesns or Estate belonging in particular to the Prince, was call'd *Sacrum Patrimonium*, to distinguish it from the Patrimonies of private Men; as we find in many Places of the 12th Book of the Code. For the same reason the Name of *Patrimony* was given to the Estate of every Church; and we find mention'd

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tion'd in the Letters of *St. Gregory*, not only the Patrimonies of the *Roman Church*, but also of the Church of *Rimini*, *Milan*, and *Ravenna*.

Churches in Cities, whose Inhabitants were but of moderate Substance, had no Estates left to them out of their own District: But those in Imperial Cities, such as *Rome*, *Ravenna*, and *Milan*, where Senators, and Persons of the first Rank inhabited, were endowed with Estates in divers Parts of the World. *St. Gregory* mentions the Patrimony of the Church of *Ravenna*, in *Sicily*, and another of the Church of *Milan* in that Kingdom. The *Roman Church* had Patrimonies in *France*, *Africk*, *Sicily*, in the *Cottian Alps*, and in many other Countries. And the same *St. Gregory* had a Law-suit with the Bishop of *Ravenna*, for the Patrimonies of the two Churches, which afterwards ended by Agreement.

And to create yet the greater Respect for the Estates belonging to the Church, it was usual to annex the Name of some favourite Saint, which that Church held in most Veneration. So the Estate of the Church of *Ravenna* was call'd, The Patrimony of *St. Appollinare*; that of *Milan*, The Patrimony of *St. Ambrose*. The Estates of the *Roman Church* were call'd, The Patrimony of *St. Peter* in *Abruzzo*, the Patrimony of *St. Peter* in *Sicily*; in the same manner as we say, The Revenues of *St. Mark* at *Venice*.

Where the Patrimonies of the Prince were not assign'd to the Use of the Army, a Governor or Intendant (1) was plac'd, who had Jurisdiction in all Causes which concern'd those Estates: Some of the

(1) This Intendant was stil'd, *Comes rerum Privitarum*, to distinguish him from the *Comes sacri Patrimonii*: Both are spoken of in the first Book of the Code: The first in the Title 33. the second in the Title 34.

Roman Clergy would have usurp'd the same Power, wherever that Church had any, throughout all their Patrimonies, and have been the Judges themselves, without having any more Recourse to the Civil Magistrate. But *St. Gregory* condemn'd and rebuk'd this Innovation, and forbad the Practice of it under Pain of Excommunication.

The Canon of *St. Ambrose*, call'd, *Si Tributum (c)*, is a Testimony that the Estates of the Church paid Tribute to the Prince. And it is certain, that in the Year 681, *Constantine Pogonatus* or *Barbatus*, exempted the *Roman* Church from Tribute, which it paid for the Patrimonies of *Sicily*, and *Calabria*; and *Justinian Ritmenus* in the Year 687, remitted the Tribute for the Patrimonies of *Abruzzo* and *Lucania*.

Yet the *Roman* Church drew not so great Revenues from its Patrimonies, as some have imagin'd; for Historians speaking of the Confiscations of *Calabria* and *Sicily* by *Leo Isaurus*, in the Year 732, acquaint us, That they both yielded but 3 Talents of Silver, and half a Talent of Gold; which (not to dwell on the Diversity of Opinions concerning the Value of a Talent) make no more than 2500 Crowns of our Money: And the Patrimony of *Sicily*, tho' very large, amounted to no more than 2100 Crowns.

(c) Si tributum petit Imperator, non negamus; agri Ecclesiae solvant tributum. Si agros desiderat Imperator, potestatem habet vendicandorum; tollat eos, si libitum est; Imperatori non dono (for the Ecclesiasticks having only the Usufruct and Stewardship, they cannot give what is not their own) sed non nego. *Causa* 11. *quæst.* 1. *cap.* 27.

CHAP. X.

IT will not be foreign to our Subject to know the particular State of the Church, during the time that the Goods of it remain'd united in one Common-stock, and under the same Administration, tho' the Revenues arising from thence were divided: But the same Face of things was not likely to continue, considering the Differences which arose betwixt those who had the Administration, and those who were subject to it. So every Minister began to retain all the Offerings made in his own Church, and convert them to his own Use: Whereas before they carried the Offerings to the Bishop, who made a Dividend of them. But as an Acknowledgement of the Bishop's Superiority, every Minister presented him with a 3d Part of these Offerings, and something more, as a Mark of Respect paid to the Episcopal Chair, which was call'd *The Cathedral (a)*. They also divided the Lands, and assigned to every Man his Share.

But these Changes were not made in all Places, nor all at one Time, where they were made; nor by any publick Edict, but in the Manner wherein all Customs are introduced, obtaining and enlarging themselves insensibly, especially bad ones, which make the swifter Progress, and find less Opposition:

(a) Cathedraticum etiam non amplius quam vetusti moris esse constitit, ab ejus loci Presbytero noveris exigendum. *Gelasius Fabiano Episcopo, anno 494. Can. 5. q. 3. causa 10.*

Illud te volumus modis omnibus custodire, ne qui Episco-

porum Siciliae de Parochiis ad te pertinentibus nomine Cathedrali amplius quam duos solidos praesumant accipere Telagius, *Anno 580. Can. 4.*

The Council of *Praga* had fix'd this Right 8 Years before.

Whilst the Affairs of the Church were in this Posture, the Princes distributed the publick Lands among the Soldiers, upon Conditions of several Natures, some of guarding the Frontiers, some of serving the State in Civil Affairs, or in the Wars, some of defending the Cities and strong Places. And these Estates, which in the Language of the *Franks* and *Lombards* were call'd *Fiefs*, in the *Latin* Tongue, which was not then wholly extinct, were called *Beneficia*, as held of the Princes Bounty (1). For the same Reason the Portions of Ecclesiastical Estates, or the Right of possessing them, were also call'd *Benefices*, because they were in that Respect like Bishopricks given by the Prince; or by the Bishop, who with the Permission of the Prince, conferr'd the other Dignities: Besides that the Church-men are consider'd as a sort of Spiritual Soldiers, who keep constant Guard, and exercise a sacred Warfare.

The Abbies beyond the Mountains by this time being grown to vast Possessions, the Mayors of the Palace took upon them the Authority of making the Abbots: For which the Usage of those times in making the Monks all of meer Laymen, gave also a fair Occasion: Unless sometimes, as a thing of Grace, the Monks had Leave to choose an Abbot themselves.

In *Italy*, where the Wealth of the Monasteries had not made them considerable before the Year 750, they had pass'd unreguarded by the *Gothick* Kings, the Emperors, and the Kings of *Lombardy*; so that the Election remain'd still in the Monks only, with the Super-intendency of the Bishop.

(1) That which *Marculf* calls *Manus Regium* is nothing but a *Fief*, according to Mounf. *Rignm. Dedit igitur vir ille per manu n. fra conjugii sue illi vil-* *las nuncupantes illas, quas aut manere regio, aut de al. de Pa- rentum vel undecunq; ad presens tenere videtur. Lib. 1. formula*

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But the Bishops being become uneasy to the Monasteries, by their aspiring to too much Power, the Abbots and Monks, to deliver themselves from this Subjection, betook themselves to the Pope; beseeching him to exempt them from the Bishop's Jurisdiction, and to take them into his immediate Protection.

This was gladly embrac'd by the Popes, who saw their Interests, in creating, by this means an immediate Dependance on themselves, in Cities belonging to other Governments; and in enlarging their Authority over the Bishops. Besides that it imported extreamly, that so great a Body as that of the Monks, who in those times were almost the only Persons, who addicted themselves to Learning, should depend intirely on the See of *Rome*. And this Exemption quickly extended itself to all the Monasteries, which by this Means became more closely united to that See, and separated from the Bishops (2).

C H A P.

(2) The Abbots, saith *Frà. Paolo*, lib. 2. *Council of Trent*, resolv'd to withdraw themselves from the Obedience of the Bishops, beseeching the Popes to take them under the Protection of *St. Peter*, so as to be under no Authority but that of the holy See: Who gladly receiv'd them, as it turn'd much to its Interest, seeing it is always theirs who obtain Privileges, to support his Authority who grants them. *St. Bernard* detesting this Innovation, remonstrates to Pope *Eugene III.* the great Abuse of an Abbot's refusing to obey his Bishop, and

the Bishop his Metropolitan: That the Church Militant ought to govern itself after the Example of the Church Triumphant, where an Angel never saith, I will not submit to an Archangel: But what would this Saint have said, had he liv'd in one of the following Ages? *St. Bernard*, saith *Mezgeray*, tho' a Monk, and most zealous for the holy See, loudly condemns these Exemptions. For, saith he, to exempt Abbots from the Jurisdiction of Bishops, what is it other, than to command them to rebel? And is it not as monstrous a Deformity in the Body

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of the Church, to unite immediately a Chapter or an Abbey to the holy See, as in a human Body to join a Finger to a Head? But it is observable by the way, That the Exemption from temporal Rights, which the Bishops themselves had granted them, opened the Door to this Spiritual Exemption.

Tune tibi licitum censeas suis Ecclesias mutilare membris, confundere ordinem perturbare terminos, quos posuerunt patres tui? --- Monstrum facis, si manui digitum submovens facis pendere de capite, superiorem manui, brachio collaterem. Tale est, si in Christi corpore

membra aliter locas, quam disposuit ipse---Sicut Seraphim & Cherubim, ac cæteri quique usque ad Angelos, & Archangelos, ordinantur sub uno capite, Deo: Ita hic quoque sub uno summo Pontifice Primate, vel Patriarchæ Archiepiscopi Episcopi, Presbyteri, vel Abbates, & reliqui in hunc modum--- Quod si dicat Episcopus, nolo esse sub Archiepiscopo: Aut abbas, nolo obedire Episcopo, hoc de Cælo non est: Nisi tu forte Angelorum quempiam dicentem audisti: Nolo sub Archangelis esse, &c. *De considerat. lib. 3. cap. 4.*

CHAPTER XI.

IN *France*, the Bishops gave themselves up intirely to secular Cares: And seeing those who were made by the King had no Restraint on their Behaviour, it was less to be expected the others should have any, who were made by the Mayors of the Palace, when the Royal Authority was so much declined. The Abbots too had their Avocations from the Functions they were at first design'd to; furnishing the King with Soldiers, and going themselves in Person to the Wars; but not to do the Duty of Ministers of CHRIST, but to draw their Swords in the Field (1).

(1) *The Use of Arms was forbidden by the Chap. 61. lib. 6. of the Capitulars.* Si quis Episcopus, Presbyter, Diaconus, vel Sub-diaconus, ad bellum pro-

cesserit, & arma bellica indutus fuerit ad belligerendum ab omni officio deponatur, in tantum ut nec Laicam Communionem habeat.

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This furnish'd them with an Occasion to take all to themselves, instead of being contented with the Fourth Part; so in this Military Capacity they plunder'd the poor Priests who administer'd the Word of G O D and Sacraments to the People, and had nothing left to maintain them: And this oblig'd the People, every Man according to his Zeal, and his Devotion, to contribute to their Maintenance out of his own Estate.

But the Difference betwixt the Liberality of Contributions in one Place and another, occasioning sometimes great Complaints, the Question grew, What was the reasonable Part for the Curate? And the receiv'd Opinion of those times was, That it ought to be determin'd by the Divine Law in the Old Testament, which gave him the Tenth. And seeing G O D had enjoin'd this to the *Jewish* Nation (a) it was easy to represent it as due also under the Evangelick Law; tho' our SAVIOUR JESUS CHRIST, and St. Paul, are silent in it, farther than to say, That the People ought to make a necessary Provision for the Minister (b) and that he who labours is worthy of his Hire (c); and that those who serve at the Altar ought to live by it (d): But without prescribing any fix'd Proportion, because in some cases the Tenth Part would be too little, and in others the tenth Part would be sufficient.

But as this is a thing in itself so evident, and I shall have occasion to resume the Subject, and treat

(a) Decimas tuas non tardabis reddere, *Exod.* 22. Offertis decimas, & primitias manuum vestrarum, *Deut.* 12.

(b) Dignus est operarius mercede sua, *Luc.* 10. & 1 *Tim.* 5.

(c) Dignus est operarius cibo suo, *Matth.* 10.

(d) Qui altari deserviunt, cum Altari participant----- Dominus ordinavit eis, qui Evangelium anunciant de Evangelio vivere. 1 *Cor.* 9.

it more at large, hereafter, I will leave it now ; only with this Observation, That all the Sermons of those times, and for some Ages after, without touching on Matters of Faith, were all pointed to prove the Obligation of paying Tythes (2) ; which the Necessities, and Interests of the Curates or Ministers, induc'd them to amplify and enforce with all their Eloquence : This; as it happens sometimes to Orators, carry'd them so far, as to place all Christian Perfection in that one Merit of paying Tythes : And not contented with Predial Tythes, they began to claim Personal also ; that is to say, the Tythe of every Man's Trade and Industry, not excepting even that of Hunting, and the Soldiers Pay.

As many of these Sermons are extant without the Authors Names, some of them, through Mistake or Design, have been attributed to St. *Augustine*, and other ancient Writers. But besides that the Stile discovers that they have been made about the Year 800 (3), History puts it out of all Doubt, that there never

(2) A Preacher in the time of *Charlemaign* inform'd his Audience, That they ought not only to pay Tythes to the Priests, but to carry them to their Houses.

Nec debetis expectare ut Presbyteri & Clerici alii decimas vobis requirant, sed cum bona voluntate vos ipsi sine admonitione debetis donare, & ad domum Presbyteri ducere.

In the Appendix to the Capitulars, p. 1376. see lib. 6. of these Capitulars, chap. 192. where the Priests are enjoind to preach to this Purpose. A-

gainst which Abuse *Alcuinus* inveighs in one of his Letters.

Tu vero, *saith he*, frater dilecte, fili charissime, perge in opere Dei, & esto Prædicator veritatis, non Decimarum exactor; quia Novella Anima Apostolicæ Pietatis Lacte nutrienda est, donec crescat, convalescat & roboretur ad acceptiorem solidi cibi. Quid imponendum est Jugum cervicibus Idiotarum, quod neq; nos neq; fratres nostri sufferre potuerunt? Ep. 7. apud *Mabillon*, tom. 4. *Analectorum*, p. 279.

(3) Cardinal *Peron* saith, That

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never were any Tythes paid either in *Africk* or in the East, and that they owe their Original to *France* (4), as hath been before observed.

That these Pieces were forg'd by the Monks in the time of *Charlemaign*, because they liv'd most at that time by transcribing Books. *Perroniana*.

(4) *The Council of Mascon*, Anno 585, proceeded to excommunicate those who paid not Tythes. Statuimus, & decernimus, ut mos antiquus a fidelibus reparetur, & decimas Ecclesiasticis

famulantibus populus omnis inferat, quas sacerdotes aut in pauperum usum, aut in Captivorum redemptionem erogantes suis orationibus pacem populo ac salutem impetrent. Siquis autem contumax nostris statutis saluberrimis fuerit, a membris Ecclesiæ omni tempore separetur. *Can. 5. in fine.*

C H A P. XII.

I Come now to *Italy*, where for many Ages none was ordain'd to the Priesthood, who had not at the same time some particular Cure assign'd him, unless in the Case of some eminent Man for Piety and Learning, who would not accept the Care of any Parish at his Ordination, that might divert him from his sacred Studies. *St. Jerom* and *St. Paulinus* were thus ordain'd Priests, one at *Antioch*, the other at *Barcelona* (a); and except on this Occasion, Antiquity knew no Distinction betwixt Ordination and a Benefice, which was always assign'd him, and which gave a Right to be entertain'd out of the Common-Stock of the Church.

(a) Ea conditione in Barcinonensi Ecclesia consecrari adductus sum, ut ipsi Ecclesiæ non alligarer in sacerdotium tantum

Domini non etiam in locum Ecclesiæ dedicatus. *Paulin. Ep. 1. ad Severum, Num. 10.*

But

But when Church-men of Merit happen'd, by the Calamities of War, to be driven from their Ministry, and receiv'd into other Churches, where they were maintain'd out of the Common-Purse, in the same manner with the Clergy of the Place. As any Vacancy happen'd, by Death or otherwise, it was fill'd by some one of the strange Clergy, who being thus provided for, was call'd *Incardinatus* (1); and he who stepp'd into a Ministry, having had none before, was call'd *Ordinatus*.

This Usage began in *Italy* before the Year 600, when many Bishops and other Clergymen were plunder'd, and driven from their Cures, by the Ravages of the *Lombards*, and were thus replac'd in other Churches, as Ministeries became vacant. The Bishops were call'd *Episcopi Cardinales* (b), and the Priests *Presbyteri Cardinales* (c).

Now

(1) That is, speaking strictly, admitted into a Society, transferr'd, or transplanted.

(b) Et temporis necessitas nos perurget, & imminutio exigit Personarum, ut destitutæ Ecclesiæ vestræ salubri debeamus dispositione succurrere; & ideo secundum desiderium vestrum fratrem & Coepiscopum nostrum illum, cujus Ecclesia est ab hostibus occupata, Cardinalem vestræ Ecclesiæ, sicut petitis, constituimus sacerdotem, quatenus vos de propitio, & ordinando, & vigilando, solcite studeat gubernare, cui dedimus in mandatis, ne unquam ordinationes præsumat illicitas. *Liber Diurnus summ. Pontif. Tit. 11. cap. 3.*

(c) Hæc vox, saith Onuphrius Povinius, in his Interpretation of Ecclesiastical Names, est frequens in Registro D. Gregorii, & Epistolis Pontificum Roman. Decretalibus, quibus is Cardinalis dicitur Presbyter vel Diaconus, qui certæ alicui Ecclesiæ, vel Diaconia proprius & adcerti alicujus tituli sive Ecclesiæ ministerium ordinatus, insertus annexus, & ut ipse loquitur incardinatus est. Nam St. Gregorio idem est, Cardinalem constituere in aliquo titulo, vel Ecclesia, quod incardinare alicui Ecclesiæ, vel in aliqua Ecclesia cardinare. Idem etiam de Episcopis dicit quod de sua Ecclesia ad aliam necessitatis causa translatos, Episcopos quidem Ecclesiæ

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Now, the greatest Part of those who were so driven from their own Churches, betaking themselves to those of *Rome* and *Ravenna*, which were the richest, and had the most Employments in the Ministry to give, and these Strangers finding a welcome Reception there, both in regard of the Abundance in those Churches, and of the great Concourse it drew to them of the most eminent Persons of all Kinds (which we see continu'd to this Day) it rarely happen'd, that any of their own People were ordain'd, but commonly Strangers: And this was the reason, why in these two Churches, all who had any Ministry, were call'd *Cardinales*: A Name which still remains in the Church of *Rome*, but not in that of *Ravenna*; which *Paul III.* abrogated in the Year 1543.

Thus the Name of Cardinal, which first deriv'd it self from a very low and abject Condition, is, by a Change of Signification, become a Title so elevated, that Cardinals are now said to be, *Quasi Cardines omnium terrarum* (2): And that which at first was no Degree

clesiæ suæ, illius vero ad quam translati sunt, sacerdotes sive Pontifices Cardinales vocat.

Where is to be observ'd, That by the Phrase *incardinare aliquem*, *St. Gregory* means sometimes, To make a Bishop.

Machiavel gives the following Account of the Original of Cardinals. Under the Pontificate of *Pasc. I.* saith he, the Curates of *Rome* took upon them the Pompous Title of Cardinals, as an addition to the Honour of being the nearest Ministers to the Pope's Person, and of having a share in his E-

lection: And their Authority encreased to that Degree, especially after they had defeated the People of *Rome* of the Right of electing the Pope, that the Pontificate almost always fell upon one of them. *Lib. 1. Hist. of Florence.*

(2) That is to say, The Hinges or Axis on which the Government of the universal Church turns. And accordingly the Council of *Basil* expresses itself, *viz. Cum summo Pontifici S. R. E. Cardinales in dirigenda Christiana Republica Collaterales assistant, necesse est,*

ut

Degree nor Order in the Church, but introduc'd by meer Accidents of Calamity, is exalted to that Pitch of human Grandeur and Dignity, which we see it in Possession of at this Day.

But whoever will look into the most celebrated Councils held at *Rome*, will find that the Cardinal *Roman* Priests, in their publick Writings, have always signed under the *Italian* Bishops; and that even in after Times, no Bishop was made a Cardinal-Priest.

The first Bishops who were made Cardinals, were Persons of Note, who had been driven from their Churches; for Instance, *Conrade* Bishop of *Mentz*, who having been treated as a Rebel by the Emperor *Frederick I.* was receiv'd with open Arms by Pope *Alexander III.* and made Cardinal of *St. Sabin.* In those Days, and until the time of Pope *Innocent IV.* the Cardinals wore no Habit, nor any Mark of Distinction. He gave them the Red-Hat on *Christmass-Eve* (3) in the Year 1244. And *Paul II.* added the Red-Cap (4) to be worn by all the Cardinals, except such as were Monks or Regulars: Yet to these also it hath been granted since by *Gregory XIV.*

ut tales instituantur, qui sicut nomine ita re ipsa Cardines sint, super quos ostia universalis versentur & sustententur Ecclesie. *Seff. 23.*

Sicut per Cardinem volvitur ostium Domus, *saith* Eug. IV. Ita super hos sedes Apostolica totius Ecclesie ostium quiescit & sustentatur.

(3) Hic in vigilia natalis Domini 1244. Lugduni in Concilio generali 12 Cardinalibus viris excellentissimis creatis ejus ordinis hominibus proprium insignis, pileum rubrum dedit----

quo significabatur eos etiam caput suum, si opus esset, pro Ecclesiastica Libertate tuenda gladio offerre debere, & præsertim eo tempore quo Romana Ecclesia a Frederico II. Imp. vehementer oppugnabatur.

Onuphr. Panvin. annst. ad vit. Innoc. 4.

(4) And also Housings or Horse-clothes of Scarlet, when they rode on Horseback. *Quibus etiam, saith Platina, in this Pope's Life, panum coccinei coloris, dono dedit, quo Equos, vel Mulas sternerent dum equitant.*

We

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We have thought a short Deduction of this splendid Order, from the Original, necessary in this Place, as it concerns so eminent a Dignity, which at this Day holds the second Place in the Church, and for which, the World seems not to afford Titles pompous enough (5). [*Urban VIII.* who reigns at present, gave them the Title of *Eminence*, by a solemn Bull (6).]

(5) That we may have every thing before us upon this Subject, what *Mezeray* says of Cardinals seems to merit a Place in our Observations. 'In the Life of *Phil. Augustus*, saith he, 'the Assistance of so many Men, 'chosen out of all Degrees, in 'the Western Church, which 'supply'd the sacred College, 'contributed not a little to support the Popes under the Burden of their Affairs, and to 'encrease their Authority in 'the most distant Countries; 'but being thus agrandiz'd by 'their Means, they deliver'd 'themselves from their Dependance.

(6) These last Words have been added to the Original, in the *Italian*, either by the Copiers or the Printers, who probably have mistaken a Marginal Note for Part of the Text: For *Frà. Paolo* was dead before *Urban VIII.* obtain'd the Chair.

C H A P. XIII.

FROM the first Establishment of the Church, until near the Year 500, every Priest, as we have already shewn, was ordain'd to some particular Cure or Ministry, and liv'd upon the Common-Stock: And after Benefices came in use, no Person was ordain'd, without a Designation to some particular Benefice for his Maintenance.

But in Process of Time, it became the Practice, That if any Man well qualify'd for the Ministry happen'd to appear, tho' there were no Room, nor Benefice vacant, the Bishop, for fear of loosing him, thought

thought fit to ordain him without Office or Title, and consequently without Benefice, in Expectation of one becoming vacant. And these Supernumeraries without Title, were Co-adjutors to those who had Benefices; who, for their Service, allow'd them a Subsistence.

But in time also this sort of Clergy, without Benefices, encreasing to an excessive Number, and the Beneficiaries growing weary of their Charity towards them, it produc'd a Multitude of Scandals and Indecencies, which it was necessary to remedy by Law; by which, the Bishops were oblig'd to maintain all the Clergy themselves, whom they so ordain'd without Title (*a*).

This, at the Beginning, put some Stop to the Distemper; which, tho' often suppress'd for a while, as often return'd; for which there were two apparent Causes: One was a prevailing Desire among the People in those Days, of getting into Orders, that they might enjoy the Privilege of Exemptions, and withdraw themselves from the Jurisdiction of Princes: The other was, an aspiring in Prelates to Dominion, by encreasing the Number of their Subjects. Nor have yet these Disorders met with such a Remedy, but that frequent Indecencies still happen in many Kingdoms, to the great Diminution of the People's Respect for Religion.

(*a*) Episcopus si aliquem sine certo titulo de quo necessaria vitæ percipiat, in Diaconum & Presbyterum ordinaverit, tam diu ei necessaria subministret, donec in aliqua Ecclesia ei convenientia stipendia Militiæ clericalis assignet. Nisi talis ordinatus de sua paterna hæreditate, vel alia honestatis causa subsidium possit habere.

This Canon was made by the Council of *Lateran*, under *Alexander III.* and is to be found in the 4th Chap. *Extra de Præbendis.*

C H A P. XIV.

NEither hath the Episcopal Order itself escap'd this Abuse, since Bishops were begun to be made only Titular, and by Derision call'd *Nullatenentes* (1). Yet it cannot be said but some more Ceremony is used in making these, than in the Case of other Priests without Benefices. For tho' Priests and Deacons, and other inferior Ministers are ordain'd without any Cure assign'd them, either real or nominal, there is no Instance of a Bishop being ordain'd without a Diocess assign'd him, from which he takes his Title, tho' it be in *Partibus Infidelium*. But in that Case having no Christian in his Diocess, and only a Name without a People, he lives by serving some great Bishop, who cannot attend the Episcopal Functions, or thinks them too inferior for him to officiate in Person. And these Titular Bishops, before the Council of *Trent*, were in great Abundance, tho' now their Number is very much reduc'd.

(1) That is to say, *Holding nothing*. A *Spanish* Bishop maintain'd in the Council of *Trent*, That a Bishoprick necessarily requir'd a Diocess; that a Bishop and his Church are Co-relatives like Man and Wife: That no Footstep can be found in all Antiquity, where Bishops who quitted their Bishopricks, or were depriv'd of them, ever pass'd afterwards for such, any more than a Man, who hath lost his Wife, for a Husband. An *Italian* Bishop reply'd That the Titular Bishops having

only the Power and Vertue of Order in them, their having a Church was not necessary: That if in former Times no Bishop was ordain'd without having a Church assign'd him, it was because neither Priest, nor Deacon was then ordain'd without a Title: That since that time, it had been found for the Service of GOD and the Church, that there should be Priests without Titles; and consequently Bishops without a Diocess. *Fra. Paolo, lib. 8. Conc. Trent.*

Indeed

Indeed seeing the Jesuits have started a Question, Whether the Pope hath Power to ordain Bishops without any Title at all, real or nominal, and that they have been pleas'd to decide it in his Favour, we think it is best answer'd by a Prayer, That G O D would please never to suffer such Power to be put in Practice, lest the Reverence for this Order also be lost, which had been in general preserv'd, and with the highest Observance towards all Ecclesiastical Orders, while no Man was ordain'd that had not a particular Ministry assign'd him: And it had this Effect, that every Man was Resident, since none could be found to spare, to officiate for another.

As the Abuse of Non-residence was then utterly unknown, so also was the Distinction betwixt Benefices, which oblige to Residence; and those which do not. And were the Benefice rich or poor, or the Business of it great or little, the Incumbent could no way avoid serving in Person.

But after they began to ordain without Titles, those who had Titles were from hence supply'd with Curates for small Salaries, which afforded the Titulars a convenient Leisure to follow other Business. Accordingly the Bishops in *France*, and even the Parish-Priests, substituting some poor Priests in their Room, pass'd much of their Time at Court.

A little before the Year 800, this Abuse began to be remedy'd, not by Laws or Ordinances, but by Censures and Deprivations; which Severities serv'd to keep the Beneficiaries in some Order. Yet the Splitting of Benefices, Ordination without Titles, and Regulations for Residence, could not, in the Progress of these Institutions, through so many different Places, pass without some Variations in the Practice. Nor were they avoidable even in the same Church sometimes, from the different Views and
 Designs

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Designs of succeeding Bishops, or the different Orders and Provisions made from time to time by Princes, to obviate the Disorders arising from the Wilfulness of some Churchmen, too busy or enterprizing ; or the Resentment of some Layman, who could not, with Patience, bear to be excluded from the Management of Ecclesiastical Affairs.

C H A P. XV.

THings were in this continual Fluctuation until the time of *Charlemaign*, who having brought *Italy, France, and Germany* under his Subjection, made Reformations in the Affairs of the Church, by reducing the different Institutions he found in different Places, to one establish'd Form ; by reviving many of the old Synodical Canons that were grown obsolete ; and by making several Ecclesiastical Laws concerning the Distributions of Benefices, according to the Exigency of the Times.

He restor'd in part to the Parish-Priests or Curates, the Estates which (as we have already shewn) the Bishops had taken to themselves ; ordering, that every Curate should have a Share assign'd him of the Revenue or Fund call'd, *the Manso*. (1)

At this time the Custom of paying Tythes to the Parish-Church, which had been long establish'd in *France*, pass'd into *Italy*. Only *Charlemaign* added, That the Bishop, as Super-Intendant and Pastor-

(1) That is to say, All that is necessary for Subistence. As *St. Cyprian* observes in the Life of *Cesarinus* of *Arles*. *Donec omnes ab ipso essent redempti, eo* *argento, quo Antecessor ejus Eccliesie Mensis reliquerat.* In Feodal Matters, we yet use the Word *Table*.

General, might regulate the Distribution of Tythes^(a) according to his Discretion.

And therefore in Places of Plenty, and where the Tythes were large, the Bishops distributed them several Ways: One Part they took to themselves, another they assign'd to the Priests of their Cathedral; and some Part also to the Monasteries, on Condition they should appoint a Vicar in the Cure, allowing him a convenient Stipend.

Besides this Appointment of the Bishops, sometimes the Non-Parochial Churches took to themselves some other Part, which in time they came to defend by Prescription. And Princes also assign'd Tythes to Churches, for which they had some particular Devotion.

Charlemaign likewise restor'd to the Cities, the Liberty of Electing their own Bishops, allowing the Clergy and the People to present some one out of their own Diocess; who, when approv'd by the Prince, and invested by receiving the Crozier and the Ring, was consecrated by the neighbouring Bishops.

This Emperor restor'd likewise to the Monks, the Liberty of Electing their Abbots ^(b). He order'd farther, That Bishops should ordain such for Priests, as should be presented to them by the Parishioners.

(a) Ut Decimæ in potestate Episcopi sint, qualiter a Presbyteris dispensentur, *Cap. 143. lib. 1. Capitular.*

(b) Monachorum siquidem causam qualiter Deo opitulante ex parte disposuerimus, & quomodo ex se ipsis sibi eligendi

licentiam dederimus, & qualiter quiete vivere, propositumque indefessi custodire valerent, ordinaverimus, in alia scheda diligenter adnotari fecimus, & ut apud successores nostros ratum foret, & inviolabiliter conservaretur, confirmavimus.

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Finally he establish'd the Election of the Pope in the same Method that had been practis'd in the times when the Emperors of the East reign'd in *Rome*; which was, That the Clergy and People should Elect, and the Decree of the Election should be sent to the Emperor, which if confirm'd by him (c), the Elect was to be consecrated.

True it is indeed, that after the Death of *Charlemaign*, the Weakness of his Posterity either in Power or understanding, gave Advantage to the Popes, who were chosen by the People, to make themselves be consecrated without staying for the Emperor's Confirmation: So *Paschal* dealt with *Lewis* the Son of the Emperor *Charles*, tho' he afterwards sent to excuse it, pretending he was compell'd by the People to comply.

(c) See here the Oath, which the Clergy and the People of *Rome* took to *Lewis* the *Debonair*, and to *Lotharius* his Son, *Anno*, 824.

Promitto ego ille per Deum omnipotentem, & per ista quatuor Evangelia, & per hanc crucem Domini nostri Jesu Christi, & per corpus beatissimi Petri, Principis Apostolorum, quod ab hac die in futurum fidelis ero Dominis nostris Imperatoribus Ludovico, & Lothario diebus vitæ meæ, juxta vires & intellectum meum, sine fraude ac malo ingenio, salva fide, quam repromisi Domino Apostolico, & quod non consentiam, ut aliter in hac sede Romana fiat Electio Pontificis, nisi canonice & juste, secundum vires & intellectum meum; & ille qui electus

fuerit, me consentiente, consecratus Pontifex non fiat, priusquam tale sacramentum faciat in præsentia Missi Dominici Imperatoris, & populi cum Jurejuramento, quale Dominus Eugenius Papa sponte pro conservatione omnium factum habet per scriptum. *Tomo 1. Capitul. pag. 647. vide Thegan ad annum 827.*

Perduravit hæc consuetudo, (*saitb Onuphrius*) usq; ad Benedictum II. cujus sanctitate permotus Constantinus Imperator, Heraclii pronepos, edicto suo jussit, ut deinceps, quem Clerus, Populusq; Rom. Pontificem delegissent, Is, nulla amplius Imperatoris confirmatione expectata, more vetustissimo statim ab Episcopis ordinaretur. *Annot. ad vit. Pelagii II.*

Some there are who affirm, that *Lewis* renounc'd the Right of confirming the Pope, and alledge for Proof, the Canon *Ego Ludovicus* * ; which many others of great Learning, and with great Appearance of Reason, maintain to be a meer Figment (2). But it would be time mispent to reason any longer upon it, seeing it is out of all Controversy, that *Lotharius* and *Lewis* II. Son and Grandson of this Emperor, confirm'd all the Popes elected in their times.

* *Distinct.* 63. Vide *Florum de Electionibus*, in fine operum *Agobardi*, cap. 6. pag. 258. & ibi *Baluzium*. Vide etiam *Thegan.* ad annum 816, & 817.

(2) Witness what *Platina* says in the Answer of *Lewis* the *Debonaire* to the Deputies from the Pope, That the People and *Roman* Clergy ought not to contradict ancient Custom, nor the Agreement of their Fathers, and that they should take great Care for the future, how they offended against the *Imperial* Majesty.

Paschal's nulla interposita Imperatoris autoritate Pontifex creatur. Hanc ob rem ubi Pontificatum iniit, statim legatos ad *Ludovicum* misit, qui ejus rei culpam, omnem in Clerum & populum reicerent, quod ab his vi coactus Pontificum munus obire. Accepta hac satisfactione *Ludovicus* respondit, populo & Clero majorum instituta, & pacta servanda esse; caverent ne deinceps majestatem laderent. In *vita Paschalis* l. initio.

As for the Authors, who have writ, that *Lewis* the *Debonaire* had renounc'd the Right

of confirming the Popes, tis an Error perhaps which might arise from what *Platina* reports in the same Life, which the Library-Keeper *Anastasius*, that is, Chancellor of the holy See, relates, That *Lewis* granted to *Paschal* the sole Power of choosing Bishops, to whose Consecration the Consent of the Emperors was heretofore necessary.

Idem Bibliothecarius scribit *Ludovicum* liberam eligendorum Episcoporum potestatem *Paschali* dedisse, cum antea ea quoque in re Imperatores consulerebuntur: Quam potestatem ab *Hadriano* Pont. *Carolo* concessam idem Author refert.

For, admitting that *Lewis* had resign'd back to the Pope the Right of electing Bishops, which Pope *Hadrian* had conferred on the Emperor *Charles* his Father, it doth not follow, that he was depriv'd of the Power of confirming the Election of the Popes. Add to this, that the Canon *Ego Ludovicus* is in a Style very different from all the Acts of *Charlemain* and *Lewis*, and that it is without Date or Seal:

In that Age, and the Times both preceeding and following, when it sometimes happen'd, that the Absence of the Prince occasion'd Delay of several Months in the Confirmation and Consecration of the Pope, the Elect, however, did not assert his Choice by any Act of Government, until he were confirm'd, unless some Emergency made it necessary, and to supply a Defect in the Administration: As it happen'd in the Case of *St. Gregory*: And he was not call'd *Episcopus*, but only *Electus*: Nor did he even hold the first Place in the Church; but the Arch-Priest, who stil'd himself, *Servans Locum sanctæ sedis Apostolicæ*.

But after that Princes were excluded out of the Election, as shall be shewn in its proper Place, there was but a small Interval of Time betwixt Election and Consecration. However it was not said that the Popedom was conferr'd by Election only, but by Consecration also: So that if the Elect came to dye before Consecration, he was not placed in the Catalogues of Popes. Of which one *Stephen*, elected in the Year 752, after the Death of *Zacharias*, is an Instance, who, for not having been consecrated, was never reckon'd in the Number (*d*).

By what appears, *Nicholas II.* was the first Pope who decreed, in the Year 1059, That if at any time the Pope, through the Calamities of War, or other Effect of Malignity and Perverseness, could not be crown'd, he should nevertheless exercise his Authority, as the true and lawful Pope, in governing the

(*d*) Licet defuncto Zacharia, assset, qui tertia die Pontificatus (saith Platina, in the Life of) sui, dum res domesticas dispo-
 Pope Stephen II.) Stephanum nere incipit morbo Apoplexiæ
 quendam Presbyterum Roman. correptus interiit.
 Pontificem Populus Statim cre-

Roman Church *, and in disposing the Goods of the holy See.

However there are some Traces left of the ancient Usage, for if the Pope make a Bull before Consecration, he doth not say, *Pontificatus nostri anno 1*, but only, *A Die sucepti a nobis Apostulatus Officii* †. And there want not those who maintain, That the Pope, before his Consecration, ought not to stile himself *Episcopus*, but *Electus*; and that he hath no Right to issue Bulls. Insomuch that this Right being contested with *Clement V.* he publish'd a Bull in the Year 1306, to forbid under Pain of Excommunication any such Question to be brought into Dispute *. So that it is now a settl'd Point against the Opinion of all Antiquity, That the Pope receives all his Authority from his sole Election by the Cardinals. And it was in this View that the Writers of those times have, with some Pains and Contrivance, inserted this *Stephen (3).* whom we have lately mention'd, in the Catalogue of Popes: And to finish their Design, they have therefore given themselves the Trou-

* This Decretal is reported by *Gratian*, *dist. 23. canon in nomine Domini. 1.*

† That is, from the Day of our having undertaken the Apostleship.

* This Decretal is in the *Extravagant's Commun. lib. 5. cap. 4. tit. 10. Vide John de Selvo de Beneficio, part. 1. quest. 2. & Blas. Ortiz. In Itinerario Adriani 6. cap. 7.*

(3) *Onuphrius Panvinus*, an Author wholly devoted to the Church of *Rome*, has not reckon'd him as such, neither in his Catalogue, nor Chronicle of the Popes. He only mentions

him in these Terms: *Antequam tamen Stephanus quidam Presbyter a Populo creatus tertio post die obiit.* In Catalogo. Where is to be observ'd, that he names *Stephen II.* immediately *after *Zacharius*; whereas he should have nam'd the *Stephen* in question before *Stephen II.* who would have been *Stephen III.* if the other had been actually Pope, and so acknowledg'd. This shews, That at that time to be *Electus* was not all that was necessary to be *Episcopus*; and that a Man did not become *Episcopus*, but by Consecration, which follow'd the Election.

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ble to change the Numbers of all the following *Stephens* that were Popes, calling the second, the third; the third, the fourth; and so all the rest consequentially to the Ninth, which they make the Tenth (4) with vast Confusion and Contradiction among the old and new Writers, who are thus made to give one another the Lye, and only for the Interest of maintaining this single Point *.

(4) *The same Pavinius in his Notes on the Life of Stephen V. explains the matter, viz. That Stephanus VI. dicendus esset, non V. quod ante Stephanum illum, quem Platina secundum vocat, fuerit Papa Stephanus alter qui triduo tantum vixit: Non enim plus vel minus vivendi ratio aliquem verum Pontificem facit, sed vera & legitima comitia, quibus Stephanum illum renunciatum esse constat.*

Ideo & in Stephanis numerorum notæ mutandæ, & qui aliis est 2, 3, 4, 5. hic debet esse 3, 4, 5, 6, &c. usq; ad 10.

* The Dead have nothing left but Reputation, and to go about to deprive a Writer of his Veracity, is the only way of robbing him. And thus the poor dead Authors were charg'd with a Falsity and Insincerity, which hath not been set to Rights again in some Ages.

C H A P. XVI.

IT is plain the Government of the Church in its Beginning was intirely Democratical, All the Faithful having a Share in all Deliberations of Moment. Thus we find them all assisting at the Election of *Matthias* to the Apostleship (1), and of the seven Deacons (2): And when *St. Peter* had receiv'd the Centurion *Cornelius*, who was a *Gentile* (3), into the Number of Believers, he gave an account of it to the whole Church (4).

(1) Aët. 1.

(2) Aët. 6.

(3) Aët. 10.

(4) Aët. 11.

To supply this Failure, the Bishops held an Assembly of all the Clergy of their Cathedral Church, to assist in their Councils, or otherwise to administer in the Spiritual Government. And these receiving their Subsistence out of the Common-stock, either by the Year, by the Month, or by the Day, were call'd *Canonici* [Canons] from the Word *Canon*, which in the Western Empire signify'd such a Measure of Corn (*b*) as was sufficient to feed a single Man, a Family, or a City. And this Institution of Canons took rise a little before the Reign of *Charlemaign*, by whom also it receiv'd some Improvement in its Regulation.

(*b*) Canon (*saieth* John Calvin in his Lexicon) in Constitutionibus Imperatoriis, anniversaryam pensitationem, collationem, & præstationem significat; quæ a Provincialibus quotannis populo vel Romano, vel Constantinopolitano gratis mittebatur, & speciebus his constabat, frumento, vino, carne, oleo, &c.

And it is this Canon which *Cassiodorus* means, and which he commands the *Venetian* Tribunes to send in their Barks to *Ravenna*.

Data Jussione censuimus, ut Istria vini & olei species ad Ravennatam dirigeret mansionem.

Sed vos qui numerosa navigia in ejus confinio possidetis, providete, ut quod illa parata est tradere, vos studeatis sub celeritate portare. *As for Canons*, Rara avis in terris (*saieth the Abbot Valuinus*) Canonicus a Canone vitæ. Unde ergo? Audi unde, est namque Canon vitæ, & est Canon pecuniæ, viz. alicujus pensionis certæ, unde solet dici, solve Canonem meum. Eja ergo, ò Canonice! inveniamus Canonem tuum a quo derivaris, a Canone pecuniæ, non vitæ, id est, Canone Regionis, non a Canone Religionis. *In familia de Zizania.*

C H A P. XVII.

IT is yet farther to be observ'd, that in those times the Benefices and Revenues of the Church were grown to that Size, that they became Rewards for the principal Men of the Court and Cities, who were made Bishops, so the Bishopricks fell to their Share, to whom also the Prince had committed a great Part of the Civil Government: At first only on extraordinary Occasions, but after, finding Affairs go well in their Hands, they were constantly employ'd, tho' not every where in the same Quality or Station, but as the particular Affairs of the Place, the Abilities of the Bishop, or sometimes the Incapacity of the Earl or Comes requir'd; which Defect was then supplied, by substituting the Bishop in his Room.

And hence it came, that when the Posterity of *Charlemaign* fell into such a State of Degeneracy, as to sink at last into the most profound Ignorance of those Ages, the Bishops thought it advisable no more to acknowledge this Authority as derived from the Prince, from whence it really came, but to assume it to themselves, and exercise it as a Right peculiar to their Function, under the Name of *Ecclesiastical Jurisdiction*.

Such was the Original of this Power, which we now see continually and so desperately contested with Princes, even to the endangering the Peace of the best Civil Governments, and throwing them sometimes into Convulsions.

C H A P. XVIII.

THE want of Spirit and Genius in the Princes of *Charlemaign's* Posterity, so requisite to fit them for Empire, made his Statutes of no long Duration ; so that the first Disorders regain'd apace. The People, in few Places, and very rarely had any Share in the Election of the Bishops, and less in that of the other Ministers of the Church. The Bishops ordain'd whom they pleas'd, and disposed Benefices with the same Liberty : Except when the Prince pleas'd to recommend any Man, and then they never fail'd to obey. The Pope was always chosen by the People, and confirm'd by the Emperor before Consecration, and the other Bishops of *Italy* were never consecrated, until the Emperor had first approv'd them : And this was yet more strictly observ'd in *France* and *Germany*.

When the Pope would favour any Man's Pretensions to a Bishoprick neighbouring to *Rome*, he apply'd to the Emperor to desire his Nomination. And if it happen'd that the Pope were apply'd to for his Consecration of a Person who had not the Imperial Letters of Licence, he refus'd Consecration till he obtain'd it.

But the Posterity of *Charlemaign* having been driven out of *Italy* in the Year 884. Pope *Hadrian III.* ordain'd, That the Popes should, for the future, be consecrated, without applying to the Emperor(a) at all. In

(a) *Hadrianus III. scribit Platinam in the beginning of his Life,* 895. ne in creando Pontifice tanti animi fuit, ut initio Pontificatus sui statim ad senatum retur, utq; libera essent, & Cleri

In treating on this Subject of Benefices, it will certainly not be forreign to our Purpose to take Notice of the Popedom itself, as we shall again have occasion to do in the Sequel of this Discourse, seeing it certainly is deservedly to be rank'd in the Number of Benefices; and as it has been expressly so stil'd by *Clement III.* in a Time wherein the Pope had not only ascended to the highest Pitch of human Greatness, but had taken also a particular Stile of Dignity to distinguish him from other Bishops.

Nothing is more known, than that the Names of *Sanctus, Sanctissimus, beatus, Beatissimus*, were common to all Believers in CHRIST, when all Men under that Profession, were aspiring to an absolute Perfection of Holiness. But when Secular-men became more engag'd in the Affairs of the World than was expedient or decent, and so quitted their Titles to those blessed Names, they fell to the Share of the Ecclesiasticks only.

And after the Remissness that was found in the inferior Clergy, from their primitive Strictness of Life, these Names remain'd to the Bishops only; but when they too came to sink in their Characters, by too eager a Pursuit after the Things of this World, the Bishop of *Rome* alone retain'd these Titles, in whom they still continue, not as Designations of Vertue, but of Grandeur and Power.

Cleri & Populi Suffragia. — *Lewis the Stammerer* approv'd the *Romans* having put the Pope in Possession of the Popedom without staying for the Confirmation of the Emperor: On which false Step, 'tis probable, *Adrian III.* took the Resolution of excluding the Emperor from the Election of the Pope.

The same *Platina*, in the Life of Pope *Hadrian II.* saith, that

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As for the Name of *Pontifex*, it was, and is a Name common to all Bishops; and there are some Canons still extant, wherein all Bishops are stil'd *Summi Pontifices* (b). And even the Name of *Papa*, which seems to be a Title most peculiar to the *Pontifex Romanus*, was given indifferently to all Bishops. St. Cyprian, Bishop of Carthage, is call'd *Papa*; St. Jerom gives this Title to St. Augustine: And in later Times *Sidonius Appolinaris*, and many of the Bishops, stile one another by the Name of *Popes* (c).

And we find in the Decretal of *Gratian*, Titles of several Canons, wherein *Martin* Bishop of *Bragua* is call'd *Papa*.

Gregory VII. was the first who in the Year 1076 (d) decreed that the Name of Pope should be peculiar to him and his Successors, and be ascrib'd to none but the *Roman Papa* (e).

And

(b) *Vide Witichind. pag. 22. Number 10.* Omnia (saith the *Capitular of Aix la Chapelle*) summis Pontificibus debentur, & non Chorepiscopis, qui nec summi Pontifices nec Episcopi fuerunt. cap. 6. anno 803.

(c) Hanc vocem, (saith *Panvinius in his Interpretation of Ecclesiastical Names*) omnes antiqui Christianorum Episcopi pro Patre, & sine majore Patre frequentarunt, & præsertim magnarum & insignium urbium, ut Romæ Carthaginis, Alexandria, Antiochiæ, Hierosolymorum, &c. Cornelius enim Episcopus Romanus, & alii multi in Epistolis suis Cyprianum Carthag. Episcopum Papam & Papatem vocant. Dionysius Alexandrinus Ep. Heraclam Pre-

decessorem suum in Epist. ad Philemonem Presbyt. Romanum beatum Papam nominat. Similiter Athanasius, Theophilus & Cyrillus Episcopi Alexandrini Papæ dicuntur. Sidonius in Episcopis suis passim omnes Galliarum Episcopos Papas appellat. *Vide Savoronem ad Epist. 1. lib. 6. Epist. Sidonii Apolinaris.*

(d) In a Council held at Rome. *Vide Sirmond ad Ennodium, Lib. 4. Ep. 1.*

(e) Hæc vox (saith *Panvinius, ibid.*) post Gregorii I. tempora, reliquis Episcopis adempta, soli Romano Pontifici attributa est, qui & Apostolicus est aliquando dictus, ob præcipuæ Apostolicæ sedis, cui præest, reverentiam.

In

And this Matter was carry'd so high, and with so much Appearance of Party-rage and Faction, that *Anselm* Bishop of *Lucca*, one of his Followers, hath not scrupl'd to say, That it is as absurd and impious to suppose there are more Popes than One, as that there are more than One G O D.

In which <i>Panvinus</i> and <i>Frà. Paola</i> are very different, but as the first liv'd in the Court of <i>Rome</i>, it look'd like a Compliment to that Court, to disallow the Name of Pope to the Bishops, 4 Ages before the	Pontificate of <i>Gregory VII.</i> But tho' this Pope had taken it away from the other Bishops, yet <i>Urban II.</i> his Successor scruples not to call <i>Anselm</i> Archbishop of <i>Canterbury</i>, <i>Papam alterius orbis.</i>
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C H A P. XIX.

BUT to return to the Times immediately following the Line of *Charlemaign*. *France* gave Birth to an Invention, which tho' it seem'd to be all in Favour of the Laity, yet prov'd an immense Encrease of Wealth to the Churches. This was a Contract call'd *Precaria* (1); by which, whoever

(1) The *Precaria* were in use from the time of *St. Augustine*. Witness *Possidius* in his *Life*, chap. 24. and the Monk *Marculfus* in his *Formula*.

Add to this the Canon 18. *Concilii Epaonensis*, held under *Childebert*, anno 517. Clerici quod etiam sine precatoriis qualibet diuturnitate temporis de Ecclesiæ remuneratione possederint cum autoritate gloriosissimi Principis nostri, in jus

proprietaryum præscriptione temporis non vocetur, dummodo pateat Ecclesiæ rem fuisse: Ne videantur etiam Episcopi administrationis prolixæ, aut precatorias, cum ordinati sunt, facere debuisse, aut diu tentas Ecclesiæ facultates proprietati suæ posse transcribere. *Vide Can. 1. Concil. Agath. anno 506. Can. 7, & 45. Aurelian. 1. anno 511. Can. 23. Aurel. 4. Can. 34. Lugd. 2. Cap. 5.*

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made a Gift of his Estate to the Church, had the Profits or Uſufruct return'd him again, and twice the Value beſides, during his Life. And to thoſe who would quit their Uſufruct alſo to the Church, ſhe gave three times (a) the Value in other Eſtates of the Church to enjoy in Exchange: And this Uſage paſs'd from hence into *Italy*.

For the Preſent, this Contract turn'd manifeſtly to the Advantage of thoſe who trebled their Income, and of ſuch as had no Children, or who were more concern'd for their preſent Advantage than for their Families: But in Truth the Church was the Gainer, which after the Death of the Donor ſwept all.

From this Time until the Year 963, during the Space of 80 Years, wherein *Italy* labour'd under the extreameſt Confuſions, as well in the Civil Government as Eccleſiaſtical, eſpecially in the Papacy (b), we muſt not expect to find any Traces or Form of good Government in the Church, but a meer Chaos

(a) This was order'd by the Canon 22. of the Council of *Meaux*, in 845. *Precariæ autem a nemine de rebus Eccleſiaſticis fieri præſumantur, niſi quantum de qualitate convenienti datur ex proprio, duplum accipiat ex rebus Eccleſiæ in ſuo tantum qui dederit nomine, ſi res proprias & Eccleſiaſticas uſufructuario tenere voluerit. Si autem res proprias ad præſens dimiſerit, ex rebus Eccleſiaſticis tripulum fruſtuario uſu in ſuo tantum quis nomine ſumat.*

This Council therefore, to whom *Frà. Paul* ſeems to attribute the Inſtitution of the *Precaria*, is not the Author of it. Its Decree being only a Con-

firmation of an Uſage eſtabliſh'd long before. Where is to be obſerv'd, That at firſt theſe *Precariæ* belong'd to none but Eccleſiaſticks, and that after Seculars were alſo admitted, and even before the reign of *Charlemaign*.

(b) *Platina* in the Life of *Formoſus I.* ſaith, That by a ſtrange Fatality the Sanctity of the Popes ended with the Spirit and Activity of the Emperors. And in the Life of *Benedict IV.* he ſaith, *Acciderat huic ætati, ut hominum indutria in quovis genere virtutis conſeſceret, nullis calcaribus adhibitis, quibus hominum ingenia ad laudem excitarentur.*

of

of Impieties, and a general Preparative and Fore-runner of the miserable Revolutions and Disorders which follow'd.

Popes were then excommunicated by their Successors, and their Acts cass'd and annull'd: Not excepting the very Administration of the Sacraments (c). Six Popes were driven out and dethron'd by those who aspir'd to their Places (d). Two Popes put to Death (e), and Pope Stephen VIII. wounded

(c) Stephanus VI. (*saith Platina in his Life*) tanto odio persecutus est Formosi nomen, ut statim ejus decreta abrogaverit res gestas resciderit ----- Arbitror hoc odium ex ambitione ortum fuisse, cum jam eò devenissent Ecclesiastici, ut non coacti, ut antea, sed sponte, & largitionibus Pontificium munus obirent --- Res pessimi exempli cum postea fere semper servata hæc consuetudo sit, ut acta priorum pontificum sequentes aut infringerent aut omninò tollerent.

Romanus I. did the same to Steph. VI. which Stephen had done to Formosus. Stephani Pont. decreta & acta statim improbat, abrogatq; *saith Platina in his Life.* And Theodorus II. authorized all the Acts of Formosus, and favour'd his Adherents, *saith the same Platina.* John X. who succeeded Theodorus confirm'd also the Acts of Formosus, and condemn'd the Judgment of Stephen VI. declaring, that he had unjustly annulled the Ordinances made by Formosus.

Habito 74 Episcoporum conventu (at Ravenna) & Stephani res gestas improbavit, & Formosi octa restituit, dijudicans perperam a Stephano factum qui censuit eos iterum ordinandos esse, quos Formosus ad sacros ordines asciverat. (*Platina in vita*) And Sergius III. restor'd all those whom Formosus had degraded from the Priesthood. (*Platina.*)

(d) Leo V. was dethron'd and imprisoned by Christopherus, who had been his domestic Chaplain. Christopherus was dethroned in the 7th Month and put into a Monastery, the ordinary Exile of Churchmen in those Days. (*Platina.*)

(e) John II. (according to Panvinus, who doth not reckon the Pape's Jean with Platina) in vincula conjectus cervicali in es conjecto, necatur (*Platina in vita*) I do not find in this Historian, nor in Panvinus, the other Pope whom Fra. Paola mentions to have been kill'd.

Benedict V. *vid. pag 81.*

in

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in the Face, with so much Deformity, that he never after appear'd in Publick (f).

Theodora, a famous Courtizan, by the Intercst and Faction she had then in *Rome*, got her profess'd Lover chosen Pope, who was call'd *John X.* (g). And *John XI.* was chosen Pope at the Age of 20 Years, the Bastard of another Pope (h), dead 18 Years before. And in short, such a series of wild Disorders gave occasion to Historians to say, That *those Times produc'd not Popes, but Monsters* (i).

Cardinal

(f) *Stephanus VIII.* ut *Martinus* refert, in seditione mutilatus, turpiter aliquandiu vitam duxit, cum ob inhonesta vulnera (probably the Nose and Ears were cut off) prodire in publicum erubesceret. (*Platina in vita.*)

(g) This History is related by *Luitprand*, lib. 1. cap. 13. *Onuphrius Panvinus* saith, that this Pope was not the Son of Pope *Sergius III.* as *Platina* tells us.

(h) *Viz.* of *Sergius III.* and of *Marozia*, Daughter of the Curtezian *Theodora*, who prostituted her Daughters to the Popes.

Joannes II. (saith *Panvinus*) *Sergii Papæ & Marociæ nobilissimæ inter Romanos feminæ* (she was Widow of *Guy Marquiss of Tuscany*) filius matris, quæ tunc in urbe potentissima erat, autoritate & studio successit --- post *Leonem VI.* & *Stephanum 7.* *Platina* calls him *John XII.* *Joannes XII.* patria Romanus, patre *Sergio Pontifice, &c.*

(i) Ubi cum ipsis opibus, (saith *Platina in the Life of Benedict IV.*) Lascivire cepit Ecclesia Dei, versis ejus cultoribus a severitate ad Lasciviam, peperit nobis tanta Licentia peccandi hæc Portenta, a quibus ambitione & largitione, sanctissima Petri sedes occupata est potius quam possessa. *Baronius* calls these Popes, sedis Apostolicæ inasores, non Apostolicos, sed Apostaticos an anno 908.

Frà. Paolo makes a very judicious Reflection on the Disorder of Elections in those times. I have not found, saith he in one of his Letters, Reasons sufficient to prove the Truth of the History of Pope *Jean*, no more than I have met with any to convince me of the contrary. However, to speak sincerely, I incline to the Opinion of its being false, but not for its Absurdity, that Age producing things as extraordinary as a Lady's being Papefs.

The Persecutions rais'd by many of the Popes against the Memory

Cardinal *Baronius*, being under some Difficulty how to treat theſe Corruptions, ſaith, That in thoſe Days the Church indeed was for the moſt part without a Pope, but not without a Head; its ſpiritual Head CHRIST being in Heaven, who never abandons it.

In Effect it is certain, that CHRIST hath never yet forſook his Church; neither can his Divine Promiſe which he hath made us fail, That he will be with it even to the End of the World (*k*.)

And on this occaſion it is the Duty of every Chriſtian to believe with *Baronius*, that the ſame Calamities which happen'd in the World at that time, hath happen'd alſo at another: And, that as the Aſſiſtance of CHRIST alone preſerv'd the Church in thoſe Times, ſo hath he afforded that Shield of Defence to his Church, and will continue it to her in all the like Events and Accidents of this World: So that a Pope was not neceſſary to the Exiſtence of a Church, even tho' there ſhould never more have been a Pope (2).

A Man may eaſily make a Judgment to himſelf how the reſt of the Churches of *Italy* in thoſe times

Memory of their Predeceſſors, whoſe Acts they annull'd, and even in Councils, being things of no leſs Conſequence. Beſides where is the great Difference betwixt making a Woman Pope, and a Child of 11 Years of Age, ſuch as *Beuedict IX.* was: Not to mention *John XI.* and *XII.* who were little older.

(*k*) Rogabo Patrem, & alium paracletum dabit vobis, ut maneat vobiſcum in æternum ---- Non relinquam vos orphanos. *Jan.* 14. Et ecce ego vobiſ-

cum ſum omnibus diebus, uſq; ad conſummationem ſeculi. *Matt. ultimo.*

(2) Plane (*ſaith Baronius* ad anno 908.) opus Dei eſſe Romanam Eccleſiam, quæ tot admotis facibus non potuerit ad interitum uſq; conſumi, & ad nihilum redigi, facti evidentia declaravit. Stetit ſane, ſtabitq; ſemper immobilis de ſede Petri, ſententia ac promiſſio Chriſti, quod portæ Inferi non prævalebunt adverſus eam.

were

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were treated, in considering the State of all the other Members of a Body, when the Head is dis-temper'd.

But the general State of the Church was then, in Truth, every where else as deplorable. Princes gave Bishopricks to their Soldiers, and even to little Children. Count *Herebert*, Uncle to *Hugh Capet*, made his Son Archbishop of *Reims* (3); and Pope *John X.* confirm'd it.

In those Days no Man went to *Rome*, through the mistaken Motives of Conscience or Devotion; but if he design'd to make bold with the Canons and Usage of the Church, and found not Interest enough in his own Country to support him in it, he presently had Recourse to *Rome*: So it was not the Observers of the Laws of the Church, but the Breakers of them, whose Business lay chiefly at that Court, where a Man's Faults were his Qualifications for all sorts of Dispensations; and where the Apostolick dispensing Power stood ready to give Refuge and Shelter to all the Purposes of Ambition and Avarice.

Popes of such Characters, as we have above describ'd, made no Distinction betwixt any Actions, good or bad, that were in their Power; nor deterr'd

(3) Post obitum ipsius (*saith* Flodoard, *who was near his Contemporary*) Heribertus Comes Remis venit advocans Abbonem Episcopum Sueffionicum, & Bovonem Catalaunicum, quibus sibi junctis, tractans super electione Rectoris hujus Remensis Ecclesiæ, tam Clericos quam Laicos ad voluntatem intendere fecit. Sequentes igitur ejus concilium, ne forte per extraneas personas Episcopatus

divideretur, eligunt filium ejus nomine Hugonem, qui nec adhuc quinquenni tempus expleffet lib. 4. *Hist. Remensis*, cap. 20.

Quod in tanta Ecclesia (*saith* Baronius) male fuit a malo principe (*John 10.*) usurpatum in exemplum cito transit aliorum, ut complures hujus seculi Principes sibi sanguine conjunctos adolescentulos in summas Cathedralas curaverint promoveredos ad anno 925.

by

by the Wickedness of them ; considering every Opportunity of engaging great Men in their Interests, as an Encrease of their own Power : And finding their Interest in maintaining vigorously what they had obtain'd, and the People, either through Simplicity or Fear, were aw'd into an Approbation of what they could not hinder : From hence grew the Opinion, That an Approbation from the Court of *Rome* repair'd and cancell'd all Errors.

C H A P. XX.

IT had been reasonable to imagine, that the little Care the Clergy shew'd of spiritual Affairs, would have cool'd the Zeal of secular Men in their Bounties to the Churches, and consequently have put an End to the Growth of their Wealth : But it took another Turn, for with a supine Neglect of Spirituals, the Spirit of defending their Temporals seem'd to rise in Proportion.

The new Expedient they had found (for before it was not in use on these Occasions) of turning the spiritual Arms of Excommunication to the vindicating all their disputed Rights about their Temporals, and recovering such as had been lost by the Negligence of their Predecessors, was a Weapon they manag'd with such Success, that nothing ever became more terrible to the People, than those Censures, which at first had only been employ'd in the Chastisement of Sinners : And it was astonishing, to see Numbers of Officers and common Soldiers, guilty of so many Rapines, and withheld by no Remorse from the most flagitious Crimes, should be seiz'd in an Instant with a Respect towards the Church, which look'd like a Charm, and guarded it against Sacrilege,

ledge, on the bare Apprehensions of its Cenfures. Hence it came, that many People of fmall Confidence and Fortunes, to fcreen themfelves from the Violence of that Power, found it the eafieft way to make a Deed of Gift of their Eftates to the Church, and make themfelves her Subjects; on Condition that the Donor fhould be reinvefted with it as a Fief, referving a fmall Acknowledgment.

Thus the Church's Title became a Safe-guard to thofe who were too weak to defend their Eftates from the Great-men any other way; which the moft Powerful dar'd not to touch, when once they became Signories of the Church. And when ever the Male Line of thefe Feudatories came to fail, which was a common Accident, where Wars, and popular Seditions were fo frequent, the Succeffion of Courfe fell to the Church.

C H A P. XXI.

Q U E S T I O N I.

HAVING hitherto confider'd the Methods, whereby the Church acquir'd her real Eftates; and on what Foundation the decimating the Eftates of the Laity came to be an eftablifh'd Right in the Church, it will here be requifite, before we proceed farther, to refolve a Queftion controverted in our Days, Whether the Eftates of the Church be held by a Divine or Human Right, and to whom of Right they belong?

The receiv'd Opinion diftinguifhes betwixt the Church's Title to Goods, which come by Will or Donation,

Donation, and that which she hath to Tenths, First-fruits, and other Offerings.

As to real Estates, it is agreed by all, that where-ever they are found, they ought to be call'd temporal Goods, and that the Church enjoys them by human Right ; seeing it is certain, and as we have already shewn, that after all Communities and Aggregate Bodies had been prohibited from acquiring immoveable Estates, the Church, first by Permission, and then by Concession from the Emperors, obtain'd that Power.

Agreeable to this is the Canon, *Quo Jure, Dist. 8.* wherein it is declar'd, to be only by Virtue of human Laws, that it is said, This Inheritance is mine, or this Servant belongs to me ; and that without which, neither Church, nor any Person whatsoever can be said to have a Property in any thing (a).

It cannot be doubted, but that the Division of Estates derives its Authority from the Civil Law, or that the various Ways of transferring them from one Possessor to another, by Will, Donation, and all manner of Contracts, are of human Institution.

There have been Examples of Kingdoms and Republicks in the World, to whom Wills, and Testaments were things unknown : The *Roman* Law allows the Privilege of making them only to *Roman* Citizens : And it is not conceivable, that the Means of acquiring a Thing should be of human Right, and the Enjoyment and Possession of it should be of Divine Right.

Whenever the Title to any Gift or Bequest to the Church, happens to be contested, it is decided by

(a) Jure humano dicitur, hæc villa mea est, hæc domus mea, hic servus meus est. Jura autem humana, jura Imperatorum sunt | ---- Tolle jura Imperatorum & quis audet dicere, mea est illa villa, aut meus est ille servus, aut domus hæc mea est.

F 2 human

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human Laws ; and if it be adjudg'd in Favour of the Church, it is by Authority of the Laws she must be secur'd in the Possession.

But to insist no longer upon a Point, which seems to be generally given up, we will leave it, with only this Inference, which may very clearly be made upon the whole Question, That whether the Exemptions which the Church Estates enjoy, are owing to a Divine or Human Right, yet seeing both the Possession, and the means of obtaining it, proceed both from the same Law ; and that the Lawyers say, that Tenures of Servitude, or Freedom and Dominion, all derive their Right from the same Law : It would be a manifest Contradiction to say, That the Church might hold an Estate, for Example, *Jure Veneto*, by the Law of *Venice*, and yet that Estate should claim to be free and independent by another Right.

As to the Question concerning Tithes, there are two Opinions, one of the Canonists singly, the other of Divines and Canonists, who study the holy Scripture, and the Canons together.

The Canonists say, That Tithes are of Divine Right * ; because in the Old Testament GOD gave them to the *Levites* (b) : And we have no reason to be surpriz'd at their manner of reasoning, who are so little conversant in reading the Scriptures ; neither is the Study of the Mysteries of the Christian Religion any part of their Profession.

* *Covarruvias* is not of this Opinion. *Vide chap. 18. lib. 1. of his variarum Res. lut.*

(b) Filiis Levi dedi omnes decimas Israelis in possessionem pro ministerio, quo serviunt mihi in tabernaculo fœderis----

Decimarum oblatione contenti, quas in usus eorum & necessaria speravi. *Num. 18.*

De filiis Levi sacerdotium accipientes (*saieth St. Paul*) mandatum habent decimas sumere a populo secund. legem. *Heb. 7.*

G O D, by the Ministry of *Moses*, gave to the *Jewish* Nation a Law, which both in the Ceremonial and Judicial Part, was design'd to be the Municipal Law of that Nation, until the coming of J E S U S C H R I S T, who was to abrogate and annul all its Force (c). So that in Truth the Law of Tithes is a Divine Mosaical Law, binding only to the *Jewish* People at that Time, but not a Divine-Natural Law, nor Christian, and consequently binding to no Man now.

The Legislature of any Government may enact the same Laws with those of *Moses*, but they cannot be said to be as binding, nor to carry the same Authority, nor can they be call'd Divine, but meerly Civil Political Laws of the Prince who constituted them.

There was a Divine Mosaical Law, that a Blasphemer should be kill'd, but this obligeth no more now, neither doth he sin, who puts it not in Execution. The Prince may make a Law to punish Blasphemy with Death, and it would be a just Law, and what deserves to be strictly observ'd; but this would not make it a Divine Law, tho' G O D gave it heretofore to the *Jews* (d).

In these and many other cases, where the Canonists fly to the Old Testament, to defend the Interests they have in asserting the Divine Right, we must take care to point out the Sophistry, and to

(c) Translatio sacerdotio, necesse est, ut & legis translatio fiat --- Reprobatio fit præcedentis mandati propter infirmitatem ejus & inutilitatem, *Heb. 7.*

(d) Dominus locutus est ad Moyſen, dicens, Educ Blaſphemum extra caſtra, & ponant om-

nes qui audierunt, manus ſuas ſuper caput ejus, & lapidet eum populus univerſus. Et ad filios iſrael loquens: Homo qui blaſphemaverit nomen Domini morte moriatur, lapidibus opprimit eum omnis multitudo. *Levit. 24.*

make the proper Distinction in our Answer, which is, That whatever is of Natural or Christian Divine Right, is binding to us ; but not that which is of Mosaical Divine Right ; so that if a Prince or Government should make a Law exactly the same with that of *Moses*, it will however be only of human Right.

I cannot here forbear doing that Justice to the Understandings of these Doctors to affirm, That there is much more of Artifice than Ignorance in what they say on this Subject, to gain Credit with weak and unwary People, and to give a Sanction to their Pretensions of the strongest Title in the World, which is, the *Divine Right*. But here they seem to me, to stand convicted, and to be left without Reply. For in the same Text of Scripture, where GOD commands the Tenth to be given to the *Levites*, he also commands, That they shall not possess any Land or real Estates ; and that they shall content themselves with the Tithes only (e). If therefore the People be oblig'd by this Command to pay Tithes, the *Levites* are under the same Obligation to take no Possessions of Inheritance.

We find also in the same Place, That GOD granted them only the Tenths of the Fruits of the Earth (f), and nevertheless the Canon Laws ordain the Payment of Tythes also out of all

(e) Dixit Dominus Aaron. In terra eorum nihil possidebitis, nec habebitis partem inter eos. *And a little after it is said,* nihil aliud possidebunt, decimarum oblatione contenti. *Num.* 18.

Non habebunt sacerdotes, & Levitæ partem & hæreditatem cum reliquo Israel, quia sacrifi-

cia Domini, & oblationes ejus comedent, & nil aliud accipient de possessione fratrum suorum, *Deut.* 18.

(f) Omnem Medullam olei, & vini, ac frumenti tibi dedi, *saieth GOD to Aaron,* universa frugum initia, quas gignit humus, & Domino deportantur, cedent in usus tuos.

Merchan-

Merchandize, out of the Soldiers Pay, out of Hunting and the Sports of the Field, and out of every thing gain'd by any kind of Labour and Industry whatsoever.

If GOD have oblig'd the *Jews* to the Payment of no more than Predial Tythes, then it must be granted, that Personal Tithes are only a human Law.

All the Divines, to a Man, and with them many of the Canonists agree, it to be a Precept of the Divine Natural Law, that he who administers at the Altar should live by his Ministry (*g*). As it is an exprefs Command of JESUS CHRIST in the Gospel, that the Minister, who preacheth the Word of GOD to the People (*h*), should be maintain'd by his Ministry. But the Proportion of the Allowance is not determin'd, but varied according to the Number of Persons, who share it, and the Circumstances of Time and Place, which make that too much at one time, which would be too little at another. Therefore the Ministers of CHRIST have a Divine Right to a Part, but whether it be a Tenth or a Twentieth Part, more or less, is determined by human Laws, or by Custom, which is many times as powerful.

And where it is said in some of the Decretals, That Tithes were instituted by GOD himself, or that the Payment of them is of Divine Right: In that Sense a certain Part is taken for an uncertain,

(*g*) Filiis Levi, *saitb* GOD, dedi omnes decimas pro Ministerio, quo serviunt mihi in tabernaculo foederis. *Nam.* 18. — mus, magnum est, si nos carnalia vestra metamus? *ibid.* Qui bene præsunt Presbyteri, duplici honore digni habeantur, maxime qui laborant in verbo & doctrina — Dignus est operarius mercede sua, *1 Tim.* 5.

(*h*) Dominus ordinavit illis, qui Evangelium annunciant, de Evangelio vivere, *1 Cor.* 9. Si nos vobis spiritualia seminavi-

and so by the Tenth is understood such a Part as is reasonable and necessary : And as G O D hath instituted Tythes in the Old Testament, human Laws have, by that Example, instituted them in the New. So that we may make this general Conclusion, That all Ecclesiastical Estates, of what kind soever, are in his Power, who is the Patron, and possess'd by Virtue of human Laws.

Nor let any Man object that this undetermin'd Part is due by the Divine, Natural, and Evangelick Law. For there is a great Difference, as the Lawyers well observe, betwixt a thing that is due, a Debt, which may be satisfy'd by Payment of the Value ; and that of which a Man hath the Demeas'n or Fief, as chief Lord. This last, say they, may be justly demanded, [*actione rei vindicationis*] nothing but the same individual Thing can make Satisfaction, and nothing in Lieu of it can be deem'd an Equivalent : Whereas the Creditor can only prosecute his Debt by personal Action, the Debtor being oblig'd to pay the Value of the Debt only, but not in this or that individual Thing, or in any particular Species.

By the Resolution of this Question, it is easy to determine, whether Benefices be *Jure divino*, or *Jure positivo* : For if real Estates and Tithes be of human Institution, it is necessary that the Benefices consisting of these be held by the same Title. And to sum up all, If the real Estates of the Church remain'd in Common for so many Years, and not divided into Benefices and Cures, as is already declar'd ; it is then undeniable that Benefices are of human Institution. But as the World is too well agreed in this, to require any farther enlarging on this Argument, I shall only add, that tho' these Considerations may appear too subtle, and too refin'd, the Sequel of this Discourse will convince the Reader, they are no more than necessary.

Q U E S -

Q U E S T I O N. II.

T H E Decision of the first Question opens the Way to the second Inquiry, Who is the Owner of the Ecclesiastical Estates? By which I intend only real Estates, reserving to speak of the Fruits and Revenues in the fourth Question (1). For if they be possess'd by Virtue of human Laws, we have only to find to whom the Laws have granted them. Some will say they are G O D's, and who can doubt it, *the Earth and all that is contain'd therein is the L O R D's* (a). But in this Sense the Goods of the Church are no more G O D Almighty's, than every thing else in the World.

The Dominion of G O D is universal, but a Sovereign Prince hath another Dominion, which, according to *Seneca*, may be call'd the Dominion of Power (b); or according to the Lawyers the Dominion of Protection and Jurisdiction (c). Every private Man also hath his Dominion, which is that of Property, and the Subject of our present Inquiry.

Now it cannot be said, That G O D, besides his universal Dominion over all Things, hath also the Property of all Ecclesiastical Goods, in the same manner as a King hath an universal Dominion throughout his Kingdom; and yet hath a private

(1) Which is towards the end of this Treatise. See *Quest.* 4.

(a) Ad Deum excelsum, possessorem cœli & terræ, *Gen.* 14. Domini est terra & plenitudo ejus, orbis terrarum, & universi qui habitant in eo, *Psal.* 23.

(b) Ad Reges potestas omnium pertinet, ad singulos proprietates, *Senec.* 7. *Benef.* cap. 4.

Cujus est (*sait* Pliny the younger) quicquid est omnium, tantum ipse, quantum omnes habent. *Paneg.*

(c) Ditionis, non proprietatis, tuitionis non destructionis. Omnia regitis (*sait* one Simmacus, *addressing himself to Princes*) sed suum cuique servatis. X. *Epist.* 54.

Propriety in the Estate of his own Family. For the universal Dominion of a Prince may be encreas'd by the Addition of his private Property ; but the Dominion of GOD hath an Universality, Excellent and Infinite, incapable of any Addition, or of being particulariz'd, neither can it possibly be communicated to any Creature. Thus GOD, being LORD of all these Goods, no Man can assume to himself, and say, *I who have the same Tribunal, the same Consistory, the same Jurisdiction with GOD, am also Lord* ; for whatever Dominion any Man may have, in them, he is no less a Servant than the least of Mankind.

But there are others, who treat this Matter with more Freedom, and say, That the Pope is the Lord and Proprietor, and prove it by the Decretal of *Clement IV.* which declareth, That the Disposition of all Benefices belong intirely to him (*d*).

St. Thomas refutes this Opinion in saying, That the Pope may indeed be call'd the Principal Dispenser of all Benefices, but in no sort either the Lord, Owner, or Possessor of them (*e*).

Cardinal *Cajetan* adds for an Explication of this matter, That the Pope can neither give, nor, in any other manner whatsoever, dispose the Goods of the Church, than as right Reason shall direct, and without exceeding the Trust of Disposition repos'd

(*d*) Licet Ecclesiarum, Personatum, dignitatum, aliorumq; beneficiorum Ecclesiasticorum plenaria dispositio ad Romanum noscatur Pontificem pertinere, *Ec. Sexti lib. 3. tit. de Præbendis, cap. 2.*

(*e*) Quamvis res Ecclesiæ sint ejus, ut principalis dispensatoris, non tamen sunt ejus, ut domini & possessoris. *2da. 2da. Quest. 100. art. 1. resp. ad object. 7.*

in him (*f*). And the reason he gives is very clear and convincing: These Goods, saith he, at first belong'd to some one, who hath transferr'd his Right by Will or Donation: Now, it never was in any Man's Intention to make such a Present to the Pope (*g*): And therefore the Property can never have been pass'd to him.

And it is for this Reason, that the same Cardinal, and Pope *Hadrian VI.* agree, That the Propriety of all Goods belong to the Church; that is, to the whole Community of the Faithful in that Place, to whom they were left: So that the Propriety of the Goods in the *Roman Church*, belongs really to the whole Body of the *Roman People*.

(*f*) Papa non est Dominus, sed Dispensator principalis pecuniæ Ecclesiasticæ, ac per hoc pecunia Ecclesiæ non est sua absolute, ut possit ad libitum de ea disponere. (*and then he adds*) Cum potestas Papæ, quo ad res temporales Ecclesiæ sit potestas, non Domini, sed Dispensatoris, consequens est, ut plenitudo potestatis papalis, circa bona Ecclesiæ temporalia, non exeat limites potestatis dispensativæ --- Ac per hoc non potest Papa ad libitum donare res Ecclesiæ, sed potest tanquam habens apicem dispensatricis potestatis, multo plus de iisdem dispensare, quam quicunq; alius proximus alicujus Ecclesiæ prælatus --- Ex eodem fundamento, quod Papa non est Dominus, sed Dispensator, sequitur quod de plenitudine potestatis non possit ad libitum dare bona Ecclesiæ cui voluerit; sed tenetur dispensare, ut recta ratio suadet. *In Comment.*

ad 2. 2. Quest. 100. art. 1.

(*g*) Nec Papa, nec aliquis Prælatus, est Dominus rerum Ecclesiæ, Ecclesia ipsa est Domina; quia Donatores non donant, & transferunt jura sua in Papam, aut Prælatum, sed in Ecclesiam Romanam, vel talem. (It is most certain, that Princes would never have given so many Lands and Revenues to the Church, if they had foreseen, that the Popes would have become the Masters of them themselves, and have turn'd the Profits of them, one Day, to the making War against the Donors.) Nec putes, *adds Cajetan*, propterea quod Papa habet plenitudinem potestatis Ecclesiasticæ, ob hoc possit de bonis Ecclesiæ disponere, sicut potest Ecclesia: quoniam plenitudo potestatis Ecclesiasticæ intelligitur in spiritualibus tantum. *Comment. 2dæ. 2dæ. ad art. 8. Quest. 43.*

Every

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Every one knows, that a Community or Society is as capable in Law of possessing an Estate, as any private Person: It is in that Sense said, that such a thing belongs to such a City; that is, to no particular Person, but to the whole People together: And it is the ordinary Stile of Wills to say, I leave to the School of *St. Roch* (1), to the Convent of the *Cordeliers* (2), &c. And of this, the ancient Usage of the Church, and the Stile in which the Canons run, are a plain Confirmation.

It is not to be doubted, but that these Estates being to go under somebody's Name, are very properly ascrib'd to him who is the Proprietor: So all the Canons, and ancient Usage of the Church having always called that which belongs to the Churchmen, the Estates of the Church; she is therefore the Proprietor. And this agreeth with those who say, these Estates are *JESUS CHRIST'S*; for all Christian Churches, from very ancient times, have taken their Denominations not only from the Name of some City, but from their first, or most famous and eminent Bishop: So the *Roman Church* is call'd *St. Peter's*, the Church of *Alexandria* *St. Mark's*, that of *Ravenna* the Church of *St. Apollinarius*. From hence the Estates of these Churches have follow'd the same Fashion, and taken also the Name of these Saints; and the Estates particularly belonging to the *Roman Church* are call'd *St. Peter's*: Which gave occasion to that way of speaking among the ancient Writers, The Patrimony of *St. Peter*, the Lands of *St. Peter*; the Patrimony of *St. Apollinarius*, &c.

(1) The Fraternity of Painters in *Venice*.

(2) The Author calls them

de Fratib; which is the Name of the great Convent of *Cordeliers* in *Venice*.

And because CHRIST is the universal Head, and Protector of all Churches, all that belongs to the Church in general, or to any particular one, is call'd the Patrimony of JESUS CHRIST; which is the same thing as to say, the Patrimony of the Church whereof CHRIST is the Head: And in the same Sense the Estates of the Republick of *Venice* are call'd *St. Mark's*, from a Republick which bears the Name of that Saint.

In truth all the Acquisitions of the Church, when her Estates lay in Common in every Diocess, belong'd properly to the Universal Church, to whom all Donations and Legacies were made. It is certain, they could only be acquir'd by those, whom the Laws made capable of taking them. The Laws of *Constantine* granted this Priviledge to Christian Communities or Societies, that is, to all the Body of Christians inhabiting in the Cities to which they were granted. The Dominion or Propriety therefore of these Estates is in these Communities.

But after Divisions came to be made, and Benefices to be instituted, then follow'd Legacies and Donations to particular Churches, and frequently to some particular use of Piety. So that there is no determinating who is the Owner, Proprietor, or Patron of these Estates, and where the Right lies, without seeing the particular Dispositions of the Wills and Donors.

To end this Argument upon the fullest Examination, it must be concluded, that the Prelates, and the other Ecclesiasticks, are the Guardians, Administrators, and Disposers of the Estates of the Church, to pursue and execute the Intention of the Donor or Testator, and to no other Purpose whatsoever: And that the Proprietor or Patron of them is the Person, or Community, to whom they have been so given or bequeath'd.

And

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And therefore all Governors of the Church ought with conscientious Care to review and ponder the Conditions of these Endowments ; for the Neglect of which, nothing but human Frailty can be pleaded. Nor ought any Man to imagine, that Prescription or long Usage can have any Force here, seeing no Man can pretend to any Benefit from Prescription, where Integrity and good Conscience is wanting. And how can any Claim be laid to these, where every Man knows, and is conscious, that these Estates have not been bequeath'd by the Donors, to be employ'd as we frequently find them.

QUESTION III.

BUT who shall be the Proprietor of those Ecclesiasticks Estates, whose Institution is not known? By the Natural and Civil Law, an Estate falls to the Community or Publick, when particular Owners fail ; and by Consequence, in this Case, it will fall to the Church : Which in short, is no more than to say, That the Beneficiaries are the Dispensers of the Estates of their Benefices, that the Proprietor is he to whose Favour the Donation or Will is made ; and if he be not known, the Right rests in the Church.

It is no Answer to say, that there are Laws both Civil and Ecclesiastical, which forbid the Alienation of these Estates ; for the Minor or Pupil is the true Proprietor of his Estate, and yet hath no Power to alienate. The Propriety or Dominion of a thing, in its largest Extent, is a Right of doing whatever a Man pleases with his own, as far as the Law allows ; which lays a Restraint on some sort of Proprietors, who need direction ; of which Communities and Societies of People are one.

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We are not to wonder, if in Questions of this Nature, in which the Pope is determin'd to be the absolute Proprietor of all Benefices and Estates, belonging to the Church, there should be so many modern Writers, ready to maintain Opinions so contrary to those of Antiquity, and to the Customs and Institutions, which draw their Original from the Apostles themselves, and other Apostolical Men. For whereas St. *Cyprian* very sensibly complains, as of one of our human Imperfections, that interested Men set themselves to adapt their Doctrine to the depraved Manners and Customs of the Age; when, on the contrary, these ought to be regulated by good Doctrine and good Laws.

To which this Observation may be added, That in the Course of so many Ages, there never were any Novelties introduc'd, even in Religion, which have not instantly found their Defenders. And therefore it is no wonder, if this happen, where new Customs and new Methods are introduc'd, contriv'd and made subservient only to the Ends of acquiring Riches, and even to authorize the Pursuit of worldly Interests, to which human Nature is so addicted.

C H A P. XXII.

THE extream Disorders and Confusion, which the great Variety and Changes of so many Kings and Emperors in those Times brought upon Italy in the Civil Government, affected no less the Ecclesiastical Affairs: The Bishops and Abbots being sometimes made by the Princes, sometimes intruding themselves by their own Authority; the other Ministers of the Church being also made, either

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ther by those who govern'd the Cities, or by the Bishops ; and sometimes again by those, who had the Power in their Hands, or the Favour of the People, possessing themselves of the Benefices.

In the Year 963, *Otho* of Saxony * enter'd Italy, and subdu'd it by Arms, and in order to settle some Form of Government there, he assembl'd a little Council of Bishops, wherein he depos'd Pope *John XII.* tho' he was of an illustrious Family, and had great Interest and Dependencies in *Rome* : But he had been made Pope at 18 Years of Age, and had dishonour'd the Pontificate by Adulteries, Perjuries, and the rest of his Behaviour, little suitable to his Character (a).

Otho oblig'd the *Roman* People, and Pope *Leo VIII.* who had been put in the Place of Pope *John*, to give up to the Emperors the Pretensions to the Right of Electing the Popes (b), and the other Bishops in *Italy*. For 36 Years, until the Year 1001, this Prince, his Son, and his Grandson, of the same Name, preserv'd this Right in themselves : And of 12 Popes, which were within that Space, two were

(a) *Jonannes XIII.* (Platina calls him not the XII.) Patris Alberici potentia fretus, Pontificatum occupat, homo sane omnibus probris & turpitudine contaminatus, venationibus magis, siquid temporis a Libidinibus supererat, quam orationi deditus. And some Lines after, Pontificium munus humeris suis nequaquam conveniens sibi desumit.---*Otho*, composito aiquantum statu Civitatis Concilium indicit, convocatis Episcopis Italianæ, quorum judicio vita sceleratissimi hominis dijudicaretur.

(b) *Cives vero* (saith Luitprand, chap. 6. towards the end) sanctum Imperatorem cum suis omnibus in urbem suscipiunt, fidelitatemq; promittunt, hæc addentes, & firmiter jurantes, nunquam se Papam electuros aut ordinaturos præter consensum, ac electionem Domini Imperatoris Othonis Cæsaris Augusti, filii ipsius Regis Othonis. Vide cap. 11.

* This was *Otho* the Grandson of the Emperor, firnam'd the Fowler.

made

made by the Prince peaceably, and without Opposition, the other not without Tumults and Disorders : Which occasion'd one Pope to be carry'd Prisoner into *Germany* by *Otho I.* (2), and another by *Otho II.* (3). There was also another Pope who was strangl'd by one who aspir'd to his Dignity : Another robb'd the Treasury of *St. Peter*, and fled (c) : Another went into voluntary Banishment (d). So that considering we meet with several Popes in those Days, who as *Baronius* observes, are plac'd in the Catalogue only to make up the Number (e), the Church had then in Effect no other Head but *JESUS CHRIST* himself.

(2) *Benedict V. elected seditiously by the Faction and Kindred of John XII.* Cum Imperator (saith *Platina*) hanc electionem nequaquam probaret & Romanos compulsi pulsi *Benedicto*, vel dedito potius *Leonem* suscipere ---- *Otho* in Germaniam rediens secum *Benedictum* ipsum duxit qui non multo post dolore animi apud *Hamburgum* moritur, ubi relegatus erat. Vide *Luitprand*, cap. 11.

(3) *Benedictus VI. or rather according to Panvinius, the Vth, seeing he who went by this Name, and was chosen by the Faction of John XIII. was Antepope, as having been chosen in the Lifetime of Leo VIII. which Leo had been lawfully chosen.* *Benedictus VI.* (saith *Platina*) a *Cintio Rom.* cive præpotenti captus, in sancti Angeli arcem includitur, eodemq; in loco non multo post strangulatur.

(c) *Bonifacius VII.* (saith *Platina in his Life*) relinquere urbem coactus, preciosissima quæque *E. Basilica Petri* subtrahens, *Constantinopolim* confugit, ubi tamdiu constitit, quo ad divenditis, quæ sacrilegio abstulerat, magnam vim pecuniarum comparasset ---- Pontifex Rom. sacrorum Pater & Rex, sacra ipsa furto abstulit; & qui vindicare sacrilegia debuerat, tanti sacrilegii factus est author.

(d) *Joannes XVII.* (which ought to be *John XVI.*) agitat^{us} seditionibus a *Crescentio* Consule Romano imperium urbis sibi vindicare conante, cupiditate hominis cedens, exulatum in *Hetruriam* abiit. *Platina in vita.*

(e) Qui non sint, nisi ad consignanda tantum tempora in Catalogo Romanorum Pontificum. *Scripti ad annum 912.*

But the other Bishops and the Abbots were made by the Emperors(*f*), without any Contradiction. And therefore upon the Death of a Bishop, his Staff and Ring were carried to the Emperor (*g*), who gave them as the Ceremony of Investiture, to the Person on whom he conferr'd the Benefice. And the new Bishop being consecrated by his Metropolitan, or by the neighbouring Bishops, went to take Possession: This is a Method yet observ'd in *France* and *Germany*. But other lesser Benefices were dispos'd by the Bishops or Abbots, on whom they depended; except when the Prince nam'd one to a vacant Benefice, and then it was never disputed: Or when he thought fit to recommend one to be provided for, when a Benefice should fall, which Expectative or Reversion was sure to be made good by the Bishop at the next Vacancy.

In this Method the three *Othos* govern'd the Affairs of the Church, and without any Controul from the Popes; tho' *Otho II.* had resided a

(*f*) It was not that Elections were abolish'd, but only made null without Investiture from the Emperor. As *Hugh de Flavigny* observes, speaking of *Anselm de Lucca*, and of another Bishop.

Cum ergo, *sait* he, præstolarentur diem consecrationis suæ, venerunt nuncii Regis Henrici Romam, rogantes, ut contra morem Prædecessorum suorum Dominus Papa (*this was Gregory VII.*) eos consecrare vellet, qui Episcopatus electionem solam, non autem donum per regiam acceperant

investituram. In *Chronico Verdunensi*, pag. 196.

(*g*) Rex autem uti volens autoritate, & consuetudine, & auctoribus Privilegiis Imperatorum, qui a Carolo magno per trecentos & eo amplius annos imperaverant sub 63. Apostolicis, dabat licite Episcopatus, & Abbatias, & per annulum & per virgam. *Sigebertus in Chronico*, ann. 4. Vide *Crantz vandal. lib. 6. cap. 25. Gronem ep. 8. ad Richer. senonensem Wilhel-mum Tyrium de bello sacro, lib. 1. cap. 13. & Goffrid. vindic-nensem. tractatu 2. pag. 278.*

long time at *Rome*, where he also died and was buried (b).

The Princes succeeding the *Othos* preserv'd the Right of conferring Bishopricks and Abbies, and even of Nomination to the other lesser Benefices, and of granting Reversions or Expectatives of Benefices before they were vacant: Until the Imperial Authority coming to diminish in *Rome*, the Church relaps'd into the former Disorders. For tho' the People, after having resum'd the Election of the Pope, elected three Popes very peaceably, there broke out some Sparks of Sedition and Tumult about the Election of *Benedict VIII.* (4), and *John XX.* (5), who were Brothers, and immediately succeeded one another; and after, in that Election of *Benedict IX.* their Nephew, who was chosen at 12 Years of Age, and who; among many other Enormities, made Sale of a part of the Popedom to one *Silvester III.* and another part to *Gregory VI.* (i). And all these three fill'd their Chairs in *Rome* at the same time, with so much more Scandal and Disorder, as this *Gregory* made use of Arms to maintain his Purchase (k); possessing himself of the Church of *St. Peter*, with a Body of Horse and Foot, not without much Slaughter. This brought the Emperor, *Henry the*

(b) *Romæ moritur, & in vestibulo B. Petri (Paradisum vocant) labro porphyretico, quod adhuc introeuntibus ad lævam apparet honorificentissime sepelitur. Platina in the Life of Benedict. 7.*

(4) The VII. according to *Onuphrius.*

(5) The XII. according to *Onuphrius in Chron. Pent. R. m.*

(i) *Benedictus (saith Platina in his Life) Joanni Archi-*

presbytero St. Joannis ad portam Latinam, qui postea Gregorius VI. appellatus est, Pontificium munus, ut quidam affirmant, vendidit. And sine Lines after, Cum annis decem per intervalla sedem Petri occupasset, tandem moritur. Nec vacasse tum sedes dici potest, cum Pontificatum vendiderit.

(k) *Vide Othon. Frising. ad anno. 1040. lib. 6. cap. 32.*

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Black, into *Italy*, who put *Benedict* to Flight, sent *Silvester* away, and banish'd *Gregory* into *Germany* (l), and depriv'd the *Roman* People again of the Power of Election (m).

After which he made three Popes successively, all *Germans*, who, without other Ceremony, took the Pontifical Habit and Ornaments. The third of these, who was *Bruno*, Bishop of *Toul*, having, by Virtue of the Emperor's Nomination taken the Habit of Pope at

(l) Has ob res (saith Platina in the Life of Gregory VI.) Henricus II. [by the Account of the German Writers, it is Henry III. otherwise call'd Henry the black] in Italiam cum magno exercitu veniens, habita synodo, cum Benedictum IX. Silvestrum III. Gregorium VI. tanquam tria teterrima monstra, abdicare se magistratu coegisset, Suideregum, Bambergensem Episcopum, cui Clementi XI. appellatio fuit, Pontificem creat.

As for Gregory VI. Onuphrius reckons him a legitimate Pope, affirming he was not elected till after Benedict VIII. Silvester III. and another nam'd John, whom Benedict had taken for his Colleague, after having driven out Silvester III. had abdicated the Popedom.

Quibus, saith he, proborum hominum precibus sacerdotum & suorum juri cedentibus, quartus susceptus est Joannes Gratianus, Archi-presbyter S. Joannis ante portam Latinam Gregorius VI. vocatus, qui Cluniaci Pontificatu privatus, quo ab Imp. Henrico III. relegatus fuerat, mortuus est. *Annot. ad vit.*

Gregorii VI. And he [Onuphrius] explains himself yet more clearly in his Chronicle of the Popes. Cum sponte abdicasset (speaking of Benedict VIII. called the IXth by Platina) in ejus locum factus est Gregorius VI. Joan. Gratianus Archi-presb. S. Joannis ante portam Latinam, qui imperante Caesare Henr. III. Aug. sedit annum; coactus in concilio Sutrii a little City of the Patrimony of St. Peter in Tuscany) ab Imp. Henrico III. congregato, abdicavit anno 1046 & ad monasterium Cluniacense relegatus, ibidem Paulo post obiit & sepultus est. and then, before he names Clement II. whom the Emperor made be chosen in the Room of Gregory, he adds these four Words, Schisma in Ecclesia Romana, to make it be understood, that the Election of this Clement was not canonical.

(m) Henricus, accepta a Clemente Imperii corona, Romanos in verba sua jurare coegit, Pontificum electioni se nequaquam interfuturos, nisi jussu Imperatoris id facere cogerentur. *Platina in vita Clement. II.*

Freisigen

Freisingen (6), and continued his Journey as far as *Clugni*, *Hildebrand*, a Monk bred up in the Church of *St. Peter* at *Rome*, a Man of singular Address, put *Bruno* upon an Artifice, to bring the Election back again to the *Roman* People. He advis'd *Brunon*, who had now taken upon him the Name of *Leo IX*, to habit himself like a Pilgrim, and enter *Rome* (n) so disguis'd; by which he would render himself more agreeable to the People. *Leo* follow'd his Advice, and the People at his Entry proclaim'd him Pope. But this Precedent was of no more Authority, for it hinder'd not the Emperor, when *Leo* was dead, from choosing *Geberard*, Bishop of *Eichstat* at *Mentz*, to be Pope, who forthwith took the Pontifical Habit, by the Name of *Victor II* (o). And this Emperor did not only then dispose the Benefices, but made Laws against those, who obtain'd them by Simony; pardoning past Faults, and imposing Penalties for the future.

(6) A City of *Bavaria*, under the Archbishoprick of *Salzburg*.

(n) Cui Romam Pontifico habitu petenti, Abbas Cluniacensis, & Hildebrandus Monachus, obviam facti, persuaserunt, ut deposito Pontificali ornatu, Romam privatus ingrederetur, quod dicerent Henricum nullam creandi Pontificis potestatem a Deo habere; sed ad Clerum, populumque Romanum id pertinere. Motus his verbis Leo, deposito Pontificio apparatu, privatus urbem ingreditur. At vero Rom. Cle-

rus, suadente Hildebrando, eundem Brunonem in Pontificem eligit, eo libentius, quod omnem auctoritatem eligendorum Pontificum ab Imperatore ad Clerum transfuisset. *Platina in vita.*

(o) Victor II. (*sic* Onuphrius in his *Chronicle of the Popes*) Suevus Germanus, Gebhardus, Comes Calbensis, Episcopus Eichstadenensis, Henr. III. Imperatoris Consiliarius, & propinquus, creatus ab Hen. III. Moguntiae, & coronatus Romae, *ibid.* April. 1056.

C H A P. XXIII.

TH O' during the Minority of the Emperor *Henry IV.* (1), Son of *Henry the Black*, the Popes were as yet created with the Consent of the Emperor's Tutors, and the Bishops and Abbots invested by him, with the Ring and Crosier-Staff; however the Popes were not wanting to take the Advantage of his Youth, and of the Diffentions which arose among the Tutors: For *Nicholas II.* made a new Constitution for the Election of the Pope, whereby the Cardinal-Bishops were to elect first; secondly, the other Cardinal-Priests; thirdly, the Clergy and the People; and in the last place, the

(1) *Platina* saith, that he had been design'd Emperor by *Hildebrand*, when he went to entreat *Henry the Black* on the Part of the Clergy and Roman People, that he would give them the Bishop of *Eichstat* for Pope. *In the Life of Victor II.*

But *Henry IV.* had no Occasion to be chosen by *Hildebrand*, to succeed to the Empire, which was then Hereditary.

Cæsares (saith *Goldastus*, in repl. pro Imperio, cap. 18.) usq; ad *Henricum V.* legitima successione Imperium adibant, & *Gregorius VII.* (who was this *Hildebrand*) Pontificii Dominatus Auctor, *Cæsarum* successionem turbare primus instituit.

Tan tu enim (saith an other German Lawyer) post exitum

Cæsaris prosapiam, Imperatores eligi oportuit, id tamen nunquam contigisse Legitur, nisi Legitimus successor deficeret. Et *Henricus Bambergensis* (this was the Emperor *Henry II.* formerly Count of Bamberg) *Othonis III.* Sobrinus, hæreditario jure sibi imperium deberi, contra *Coloniensem* contendebat. *Lampad. Reipubl. Roman. Germanica, parte 3. cap. 4.*

And besides, how could *Hildebrand*, who was but an Envoy from the Roman People, make an Emperor, *Authentice Legationis*, to use *Platina's* Phrase, seeing the Pope himself had not this Power; and that, on the contrary, the Election of the Pope depended on the Emperor's Confirmation.

Emperor

Emperor was to be apply'd to for his Concurrence^(a). But *Alexander II.* his Successor, having been chosen after this Model, the Emperor would neither confirm him, nor admit the Excuses which the Cardinals made him, by one expressly deputed out of their own Body: And tho' they represented, that all they had done, had been to avoid a terrible Civil Dissention, and that all had been carried with the highest Respect to the Emperor, seeing the Person elected was his Friend, yet he nam'd the Bishop of *Parma* (2) to the Popedom, at the Instance of *Gerard* (3) of *Parma* his Chancellor.

But three Years after, Changes happening in the Imperial Court, and the Chancellor, *Gerard*, being displaced, the Bishop of *Parma* also was depos'd, and *Alexander* acknowledg'd for Pope (4). And a League being form'd betwixt the *Bavarians* and *Saxons* in the Year 1072 against the Emperor, the Pope join'd himself to their Party, came into the League, and the next Year cited him to *Rome*, upon

(a) Decernimus & statuimus, ut obeunte hujus Romanæ Ecclesiæ Pontifice, in primis Cardinales Episcopi simul de electione tractantes, mox Christi Clericos Cardinales adhibeant: Sicq; reliquus Clerus & populus ad consensum novæ electionis accedat --- Eligatur autem de ipsius gremio, si reperitur idoneus, vel si de ipsa non invenitur, ex alia assumatur, salvo debito honore, & reverentia dilecti filii nostri Henrici, qui futurus Imperator, Deo concedente, speratur, sicut jam sibi concessimus, & successoribus illius, qui ab hac Apost. sede

personaliter hoc jus impetraverint. *Dist. 23. C. in Nomine.*

(2) Who, according to *Onuphrius*, was of the House of *Pallavicini*.

(3) *Platina* calls him *Gibert*, and says he was Governor of the Kingdom of *Italy*; *Onuphrius* calls him *Gibert* of *Carrigia*.

(4) *Platina* saith, that at the Emperor's Desire he pardon'd the Bishop of *Parma*, and gave the Archbishoprick of *Ravenna* to *Gibert* (or *Gerard*, who was afterwards created Anti-Pope, under the Name of *Clement III.* in 1080, and held the Seat until the Year 1101.

an Accufation of Simony (*b*), for hiving fold fome Bifhopricks. This Proceeding, as it was very aftonifhing, made much Noife in the World, no Pope having hitherto made fo bold a Step. But the Memory of it was foon loft in the Death of *Alexander*, to whom fucceeded *Hildebrand* the Monk (*5*), under the Name of *Gregory VII*.

The Emperor being yet young, and *Germany* all in Commotions, this Juncture invited the Pope to exclude him intirely from the Election of the Bifhops and Abbots, and to that end fent him a Monitory; whereby the Emperor was forbid to concern himfelf any more in thofe Difpofitions (*6*). To which the Emperor making a ftrong Oppofition, the Pope excommunicated him, abfolv'd his Subjects from their Oath of Allegiance (*c*), and depriv'd him of the

(*b*) Annus erat poft mille 74. quo anno Colonienfis & Hermannus Bambergensis Pontifices Romam miffi funt, pecuniæ inde Regiæ debitæ colligendæ gratia: Qui Legatione peracta, Literas Alexandri Papæ detulerunt, regemq; vocarunt, ad fatisfaciendum de Simoniaca hærefi, cæterifq; nonnullis magna emendatione purgandis, fuper quibus Romæ Rex erat delatus. *Krantz. hift. Saxon. pag. 106. & Abbas Urspurg. anno 1072.*

(*5*) The Author adds, of *Sienna*; but he was of *Soana*, a little Town in *Tufcany*, under the Arbbifhop of *Sienna*, *Gregorius VII. faith Platina, Patria Soanenfis. And Onuphrius adds, Ex Comitibus Pitilliani, & Soanæ, Monachus & prior olim Cluniacenfis. In Chron. Rom. Pont.*

(*6*) *Platina* (faith that *Gregory*) forbid only his felling the Bifhopricks and Benefices, under pain of Ecclefiastical Cenfures. *In the Life of Greg. VII.*

(*c*) *Platina reports the Form of Excommunication of the Emperor Henry IV. in thefe Terms: Beate Petre Apostolorum Princeps, inclina quæfo, aures tuas, & me fervum tuum exaudi, quem & ab infantia educafti, & ufq; ad hunc diem ab inimicorum manibus vindicafti, qui me pro mea in te fide oderunt & perfecuti funt. Fateor ego, mihi tua gratia, non meis meritis Populi Chriftiani caufam demandatam effe, conceffamq; ligandi & folvendi poteftatem. Hac itaq; fiducia fretus, omnipotentis Dei nomine, Patris, Filii, & Spiritus Sancti, Henricum*

the Administration of the Kingdom of *Italy* and *Germany*. He also made a League with the Rebels, and drew the Emperor's own Mother into it against her Son; excommunicating withal the Bishops, who were his Ministers, or in any Employments under him: And betwixt the Years 1076 and 1085, when the the Pope died in Exile at *Salernum*, he had excommunicated the Emperor four times, besides a General Decree he publish'd on the same Occasion, importing, That if any Clergyman should accept a Bishoprick, Abby, or any other Benefice from the Hand of a Layman, he should no longer be reputed of the Order, but be excluded from entering the Church: And that all Kings, Dukes, Marquisses, Counts, or any other secular Lords or Powers whatsoever, who should be so hardy to pretend to give Investitures of Benefices, should incur the same Censures (*d*).

The

ricum Regem, Henrici quondam Imperatoris filium, qui audacter nimium, & temerarie in Ecclesiam tuam manum injecit, Imperatoria, Regiaq; administratione dejicio, & Christianos omnes Imperio subjectos juramento illo absolvo, quo fidei veris Regibus præstare consueverunt. *In the same Life.*

It is worthy observation, that it is by the Force of this Excommunication, that the Popes have begun to shake off the Yoke of the Emperors, whose Vassals they were, and which is more, to assume a Right of taking away the Crown from those, who always had the Power of deposing the Popes, whenever

they abus'd the Pontifical Authority.

(*d*) *Authoritate omnipotentis Dei decernimus, ut qui deinceps Episcopatum, vel Cænobium, vel aliquid aliud Ecclesiasticum beneficium a Laico acceperit, nullomodo in numero Episcoporum, Abbatum, vel Clericorum censeatur: Eisdem quoq; censuris teneri volumus, & alligari Reges, Duces, & Principes, qui Episcopatus, Ecclesiasticæ dignitates, quod contra jus fasq; est, demandare alicui fuerint ausi — Præterea vero gratiam S. Petri, & ingressum Ecclesiæ his interdiciamus, quousq; penituerint satisfecerintq;.* *Ibidem.*

It

The Emperor, seconded by the greater Number of the Bishops, who follow'd his Party, maintain'd his Cause so well, by Arms, against the Pope and his Adherents, that they ran a very imminent Hazard in the Contest. But Pope *Gregory*, who had before excommunicated the *Normans* as Usurpers of the Kingdoms of *Sicily* and *Apulia*, now had Recourse to their Assistance, took off their Excommunication, and made Concessions to them in every Point, which before he had made the Ground of his Quarrel. And if (upon this Agreement, and to balance the Emperor's Power) *Robert* (7) King of *Sicily* and *Naples*, had not, from persecuting the Pope, turn'd his Arms to his Defence, the Quarrel had ended intirely to the Emperor's Advantage (8). But the Pope, tho' at that time an Exile, with the Assistance of *Robert*, fail'd not to support his Party.

It is to be observ'd, that *Gregory*, to colour his unjust Designs to take away the Right of Investiture from Princes, rank'd it among spiritual Things: Tho' it was no more than a meer civil, and politick Ceremony, by which Princes put the Bishops and Abbots in Possession of the Fiefs and Estates, belonging to the Bishopricks and Monasteries: For to say, that because Bishops carry a Pastoral Staff, which signifies a Spiritual Jurisdiction over their Flocks, and wear a Ring on their Finger, as a Type of their Marriage Contract with their Church, that it therefore looks as if Princes would pretend to convey spiritual Power, which they have not: This is a sophistical Interpretation, which

confounds the Temporalities of the Benefice (of which the Prince, as first Proprietor, and Representative of the People, hath the Disposal.) with the Spirituals, which cannot be communicated but by the Imposition of those Hands, who consecrate Bishops. A Consecration which would be of no Significance, and ridiculous, if the Investiture of the Prince conferr'd spiritual Authority.

(7) Call'd *Guischard*, that is to say, *The Crafty*.

(8) *Machiavel*, lib. 1. Hist. of *Florence* saith, That from these Quarrels betwixt Emperors and Popes, arose the Factions of *Guelphs* and *Giblins*, of which the first took part with the Pope, the other with the Emperor.

And

And the continu'd Services of three of these *Rogers*, all Princes of the Family of *Robert*, to the two Successors of *Gregory*, both Monks of the same Order, procur'd from the last of these Popes, *Urban II.* a Present of the Bull of the Monarchy of *Sicily* (9) to one of the Princes, in Recompence of all the Services perform'd by the *Normans* to the holy See: By which Bull, he granted a larger Power over Ecclesiastical Affairs, than that which he attempted with so much Pains to extort out of the Emperor's Hands.

Against whom, Pope *Gregory*, besides his repeated Excommunications, and the frequent Rebellions which he stirr'd up and fomented, prevail'd even with the Emperor's eldest Son (10), to join in Rebellion

(9) Which declar'd him born Legate of the holy See, and as such, constituted him Judge of Ecclesiastical Causes. Tho' this Grant be Apocryphal, and intirely fictitious, in the Opinion of the Learn'd, yet the King of *Spain* and his Ministers fail not to take the Advantage of it, in its utmost Rigor, even to the excommunicating Priests, Monks, Abbots, Bishops, and Cardinals themselves, who reside in the Kingdom; and to attribute to themselves the Title of Most Holy Father. In the Year 1556 the Council of State of *Sicily*, which took upon itself the Quality of the sacred College, publish'd a Book, intitl'd, *The Monarchy*, with Design to authorize the Spiritual Sovereignty. Cardinal *Baronius* hath writ against it, *Tom. II.* of his *Annals*, but succeeded so ill, that the Vice-Roy of *Naples* and *Sicily*, and the Governor of *Milan* suppress'd this Volum, without any Regard to the Complaints made by the Cardinal, in his Letters to *Philip III.* King of *Spain*.

(10) *Conrad*, who took the Title of King of *Italy*, and made himself be crown'd at *Milan*: After which he married the Daughter of *Roger* King of *Sicily*, who gave him powerful Assistance against the Emperor his Father. So that one of our Advocates-General, of the last Age, whose Name I have forgot, had reason to say, speaking of *Gregory VII.* that under him, the *Romish* Church was truly the Church Militant.

And yet a *Jacobin* Friar of *Engbien*, was not sensible he made himself ridiculous in writing

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bellion against his Father, who by this Means was almost driven out of *Italy*: And the succeeding Pope (11) pursuing the same Methods, in carrying on the War, pour'd out his Excommunications afresh upon the Emperor, plied him with frequent Rebellions, ply'd his second Son *Henry* against him, and persuaded him likewise to take Arms. So that at length the Emperor, after great Vicissitudes of Fortune, came to an Accomodation; but was deceiv'd in the Conditions, and in the end reduc'd to a private Life, by a Resignation of the Empire to his Son (12).

After the Death of the Emperor *Henry IV. Paschal*, the 4th Pope (13), (reckoning from *Grgeory VII.* who first took up the Spiritual Arms of Excommunications, to wrest the Investiture of Bishops and Abbots out of the Emperor's Hands) held first a

ting an Apology for *St. Gregory VII.* in answer to Father *Alexander*, a Learn'd Brother of the same Order. After which he might well think of making another for Pope *Julius II.* who so nearly resembl'd *Gregory VII.*

(11) *Victor III.* who had been Abbot of *Mount-Cassin*.

(12) Whom he had caus'd to be crown'd King of the *Romans* at *Aix-la-Chapelle*, Anno 1099.

This unnatural Son, seeing his Father come with a powerful Army to the Dyet held at *Mentz*, in *January*, An. 1006, went to meet him, and casting himself at his Feet, begg'd Pardon, with all the outward Marks of a sincere Repentance. The Emperor was wrought upon with this feign'd Submission, and they both went toge-

ther to *Bingen*, where the Son deluded the Father, raising a Jealousy in him, That the Archbishop of *Mentz* might keep him Prisoner, if once he enter'd that City, before he was absolv'd from his Excommunication: That therefore it were more adviseable for the Emperor, to stay still at *Bingen* while his Son went to open the Dyet at *Mentz*, and try to dispose the Princes of the Pope's Party to a Reconciliation. The Emperor swallow'd the Bait, and his Son going without him to the Dyet, got himself proclaim'd Emperor, at the Request of the Legate, who assisted there in the Pope's Name.

(13) *Gregory VII. Victor III. Urban II. Paschal II.*

Council

Council at *Guaftalla*, a little Town in the Dutchy of *Mantua*, and then another at *Troyes* in *France*, in which he renew'd the Decrees of *Gregory VII.* and *Urban II.* importing, That no Laick should intermeddle with the Collation of Benefices (14.).

In *France* these Decrees were not admitted, but the King maintain'd the former Usage, as also the Emperor *Henry V.* who was his Father's second Son. This Prince, in the Year 1110, marching into *Italy* with an Army, in order to receive the Crown of the Empire, and the Pope having refus'd to crown him, while those Differences were depending; they were compromis'd in this Manner, That the Emperor should come to *Rome* to receive the Crown, and that no mention should be made of the Investitures on either Side, but as an Affair, which had bred so much Disturbance, be dropp'd in Silence. The Emperor came accordingly, and the Pope believing himself the stronger, would have oblig'd him, contrary to the Agreement, to have renounc'd the Investitures. But the Emperor, having taken a better Estimate of his own Strength, had the Courage to demand a Revocation of these Decrees, saying, He would not be less than *Charlemaign*, *Ludovicus Pius*, or the *Debonaire*, or other his Predecessors, who had enjoy'd the undisputed Possession of the Investitures *: This enflaming the Quarrel, the Emperor seiz'd on the Persons of the Pope, and the greater number of Cardinals, and carry'd them

(14) *Platina* in the Life of Pope (who restor'd the Bishop *Urban II.* saith, That one *Henry* to his Bishoprick) That he Bishop of *Sciffons* resign'd his would never assist at the Con-Bishoprick into the Pope's secration of Bishops, which Hands, as not believing the should be presented by Lay King of *France*, who had pre Hands.
 sented, had a Right to nomi * Vide *Sigebert Gemblacens*,
 nate; and took an Oath to the, in *Chronico*, Anno 1111.

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Prisoners out of *Rome*. This produc'd a Treaty again, by which the Pope consented to crown *Henry* Emperor, and to yield to him the Collation of Benefices (*e*), and no more to excommunicate him for exercising that Power: All which, the Pope swore to observe. Then Celebrating Mass, the Pope took, and gave the Sacrament upon it, dividing the Host betwixt himself and the Emperor (*f*), pronouncing the most dreadful and execrable Imprecations on the Violaters of this Peace.

When the Pope return'd to *Rome*, he declar'd still he would observe it: Nevertheless, his Legates took the Liberty to excommunicate the Emperor, and two Years after, in the Year 1112, these Imprecations had so lost their Force, that he held a Council, in which he confirm'd the Decrees of the Popes *Gregory* and *Urban*, that none should receive Investitures from Lay Hands; and procur'd also the late Pacification with the Emperor to be annull'd

(*e*) In Reconciliatione autem quæ facta est inter Imperatorem & Papam, (nam ipsum Papam cum Episcopis, & Cardinalibus ceperat) die Paschæ Henrico in Imperatorem coronato, post Lectum Evangelium, tradidit ei Papa ante altare Apostolorum Petri & Pauli, in oculis omnium Principum Privelegium de Investitura Episcopatum, vel Abbatiarum tam per annulum quam per virgam scilicet ut regni ejus Episcopis, & Abbatibus, libere præterviolentiam & Simoniam electis, investituram Virgæ & annuli, conferat; post investitionem verò Cano-

nicè consecrationem accipiant ab Episcopo ad quem pertinuerit. *Sigebertus in Chronico, Anno 1111. & Abbas Ursergensis, eodem anno.*

(*f*) Confirmatio pacis inter Apostolicum & Imperatorem, dum in Celebratione Missæ traderet ei Corpus & Sanguinem D. N. Jesu Christi: Domine Imperator hoc corpus Domini natum ex Maria Virgine, passum in Cruce damus tibi in Confirmationem veræ pacis inter me & te. *Sigebertus in Chronico anno cit. vide Juretum in Notis ad Ep. 236. Tvcnis Carni. pag. 195.*

and

and declar'd void, by that Council (15): And to leave no Doubt of its being so, he finally excommunicated the Emperor again, in the Year 1116.

Pope *Gelasius* II. was immediate Successor to *Pascal*, and next after him, came *Calistus* II. betwixt whom and the Emperor the Contest still lasted, and he was excommunicated successively by them both.

These three Popes not only made use of Excommunication, but found him Employment likewise in the several Rebellions, which they stirr'd up against him, and which were headed by *Lotharius* of *Saxony*, whose Arms had gain'd frequent Advantages against him. At length, the Emperor finding himself beset with so many Difficulties, renounc'd his Claim to the Investitures (g). Thus ended a Quarrel, which

(15) When the Emperor complain'd of the Excommunication thunder'd against him, some time after by the Council of *Lateran*, the Pope, *Pascal*, made answer, That he had indeed promis'd, he, himself, never would excommunicate the Emperor, in Claim of the Investitures, but never promis'd that he would not make him be excommunicated by a Council. To which the Emperor might have reply'd, That this Excommunication was an Act of the Pope himself, seeing he had confirm'd it with the Revocation of the Investitures: For the Popes pretend, that the Acts of Council are not valid without the Papal Confirmation: So that both the Revocation and Excommunication had been void if

the Pope had not confirm'd them.

(g) See the Act itself: Ego Henricus Dei gratia Romanorum Imperat. Augustus pro amore Dei, & sanctæ Romanæ Ecclesiæ & Domini Papæ Calisti, & pro remedio animæ meæ dimitto Deo, & sanctis ejus Apostolis, Petro & Paulo, sanctæ Ecclesiæ Catholicæ omnem investituram per annulum & baculum & concedo in omnibus Ecclesiis fieri electionem & liberam consecrationem. Possessiones & regalia B. Petri, quæ a principio hujus discordiæ usq; ad hodiernam diem sive tempore Patris mei sive etiam meo, ablata sunt, quæ habeo, eidem sanctæ Rom. Ecclesiæ restituo: Quæ autem non habeo, ut restituantur, fide liter juro. Possessiones

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which (had laſted 56 Years, under fix Popes) had been the Occaſion of excommunicating an infinite Number of People, Eccleſiaſticks and Seculars, who had engag'd in the Emperor's Quarrel; and which had been the Deſtruction of Millions of People, on one Side, and the other, in 60 Battles, fought by *Henry* the Father, and in 18 by *Henry* his Son. [*Tanta molis erat*] So great a Work it was to lay the Foundation of ſo vaſt a Structure, which we have ſince ſeen carry'd up to its Height: Of which, we ſhall have occaſion to diſcourſe of hereafter.

In the mean time, the Judgments were very various, which were made concerning theſe Differences, betwixt Pope *Pascal* and the Emperor: Some ſaid the Agreement on the Pope's Part was void, as proceeding from Fear, and made while he and the Cardinals were under Confinement, and in the Emperor's Power (16); and that therefore the Pope had Reason to diſown it. On the other ſide, it was answer'd, That if this were void, as having been extorted by Force, that Argument were as good for the Emperor, who was as little bound to obſerve all that he had agreed to on his Part, to ſhelter himſelf from theſe Storms of Excommunications and

ſeſſiones etiam omnium aliarum Eccleſiarum & Principum, & aliorum tam Clericorum, quam Laicorum concilio principum, & juſtitia, quas habeo ut reddantur, fideliter juvabo. Et do veram pacem Calisto, ſanctæ Rom. Eccleſiæ, & omnibus qui in parte ipſius ſunt, vel fuerunt, & in quibus ſancta Rom. Eccleſia auxilium poſtulaverit fideliter juvabo. *Abbas Urſpergenſis in Chron. an. 1122.*

(16) The Emperor had fore-

ſeen, and prevented this Objection; for after his Coronation, where the Pope had divided the Hoſt betwixt them, in Token of a perfect Reconciliation, he procur'd a ſecond Bull of the ſame Tenor with that which the Pope had granted before he was ſet at Liberty; to the end the Court of Rome ſhould have no Pretext to proteſt againſt the Conceſſion, or rather Confirmation of Inveſtitures.

Anathemas,

Anathema's, besides so many open Rebellions and private Conspiracies, which may be reckon'd as thrown into the Composition to raise the Storm: And therefore what Reason was there any more to renounce an Agreement made for Fear of Imprisonment, than one made in Terror of Excommunication and the Consequences of it, and of seeing his People in Confusion, and his Estates torn in Pieces, and overturn'd with Civil Wars.

Some Fathers of the Council in the Presence of *Pascal*, made use of this *Dilemma*, "If the Decree by which the Pope consented to yield up the Investitures to the Emperor, were lawful, it ought to be observ'd: But if it be unjust, and, as some say, heretical, the Pope, as the Author of it, is therefore unjust and heretical also *.

It is certain, that a Concession of a Thing just and due in itself, is valid, tho' made through Fear; and on the other side, an Act is never justifiable, if against the Law of G O D, by the strongest Impression of Fear that can be pleaded (17).

* *Abas Urspergensis in Chron.*
anno 1116.

(17) Because the Natural Divine Law is, of itself, good and immutable, and commands things absolutely necessary to Salvation. And for this Reason,

according to St. *Thomas*, the Commandments of G O D bind absolutely, and not the Commands of the Church, which, for that Reason may, in some Cases, be dispens'd with.

C H A P. XXIV.

TH E Strugglings and Contentions betwixt the Popes and Emperors, about the Investitures of Bishopricks and Abbies, were not confin'd to *Italy* and *Germany* alone, which were the Kingdoms and Dominions of the Emperor : But several Bishops in *France* likewise, excited either by Interest or Example, took the same Occasion to oppose the King *. But as they were not enough united, to enter all into the same League with the Pope †, the King generally carried his Point : And the Popes contented themselves to gain that by little and little, which it had not been possible for them to have compass'd all at once.

In *England*, where the Kings had hitherto always conferr'd the Bishopricks and Abbies, *Anselm*, Archbishop of *Canterbury*, in the Year 1102, in Obedience to the Pope's Decrees, began to refuse to consecrate Bishops nominated by the King (a). This Contest held for many Years, the King maintaining

* *Vide Goffrid. Vindocin. tract. 2, 3, & 4.*

† *Vide Tyon. Carnet. ep. 60.*

(a) Eodem anno [1113] *Anselmus Cantuariensis Episcopus Concilium tenuit Londoniis in ecclesia St. Petri, præfente Rege, & suffraganeis Episcopis. In hoc concilio --- Regi, quæ Romæ decreta erant, Concilio generali, plano sermone descripsit, quod videlicet nullus Ecclesiarum Prælati, Episcopus, vel Abbas, vel Clericus Investituræ alicujus Ecclesiasticæ dignitatis de manu suscipiat*

Laicorum. Et quoniam ad justificationem Regis quosdam Episcopos, qui institutiones a Rege susceperant, consecrare noluit, vel eis communicare Rex vehementer iratus præcepit Gerardo Archiepiscopo Eboracensi, ut eos consecraret : Sed Willielmus Giffardus Wintoniensis Electus, qui consecrari debuit, Gerardi sprexit consecrationem. Quare jussu Regis eliminatur a Regno. Matth. Paris in Henrico. Vide Furetum in notis ad epist. 190. Tyonis, & Baluzium Miscell. tom. 4. pag. 477.

his Authority (1), and the Archbishop, supported by the Pope, opposing it. The King, in Hopes to bring the Pope to hear Reason, sent an Ambassador to *Rome*, who, provok'd by the rough Answers and Menaces of the Pope, declar'd that his Master would never yield up his Authority, tho' he lost his Kingdom in its Defence: To which the Pope, with no less Boldness, reply'd, He would never suffer the King to nominate to the Benefices, if he lost his Head (b). The King stood his Ground, and *Anselm* was forc'd to quit the Kingdom; nor could he ever return again, without complying with the King (c). But this Prince dying without Sons, and a Civil War ensuing, it was easy for the Clergy to introduce in *England*, what the Pope had done in the Empire, by the Renunciation of *Henry V.*

(1) He insisted, that the Investitures of Bishopricks was a Right of his Crown, and enjoy'd by his Ancestors for time immemorial.

(b) Die pro Regiis constituo negotiis, Willielmus de Warenast Clericus, & Procurator Regis Anglorum causam ipsius in medium tulit, ac inter alia constanter allegavit, quod nec ipse pro regni amissione investituras Ecclesiarum amittere velit, & hoc verbis minacibus affirmavit. Ad hæc Papa, si quemadmodum dicis, Rex tuus nec pro regni amissione donationes Ecclesiarum amittere pateatur, scias præcise coram Deo dico, quia nec pro mei capitis redemptione eas illi impune permitterem obtinere. *Matth. Paris* anno 1103. *Vide Will. Malmshuriensem, lib. 1.*

(c) Eodem anno [1109] factus est Conventus Episcoporum & Abbatum pariter & magnatum Londiniis in Palatio Regis, præsidente Archiepiscopo Anselmo, cui innuit Rex Henricus, & statuit, ut ab eo tempore in reliquam nunquam per donationem baculi pastoralis, vel annuli, quisquam de Episcopatu, vel Abbatia per Regem, vel quamlibet Laicam manum investiretur in Anglia, concedente Archiepiscopo, ut nullus ad prælationem electus, pro homagio quod Regi faceret consecratione suscepti honoris privaretur. *Mat. Paris.*

Mezeray, speaking of this Agreement, saith, that strictly speaking, it was only changing Terms, for who pays Homage is a Vassal, and holds of him to whom he pays it. *In the Life of Phil. Augustus.*

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It is true indeed, that in the Year 1132, *Lotharius* of Saxony, who succeeded the Emperor *Henry V.* being fought to by *Innocent II.* to acknowledge him for Pope, and *Anacletus II.* (2), his Competitor, refus'd it, unless *Innocent* would restore the Investitures, which *Henry* the Emperor, his Predecessor, had renounced : And probably *Lotharius* had obtain'd them, if he had not desisted from his Pretensions at the Instance of *St. Bernard* (d), his intimate Friend ; who made him sensible how ill it would look in him, to maintain a Claim, which himself, at the Instigation of Pope *Pascal*, had taken Arms against the Emperor *Henry* to overthrow, and which, at the same time, would be owning himself to have been a Rebel against his Prince in an ill Cause.

And here we find a very ordinary Consequence of great Victories, that where the Force of an Enemy is not quite broken and exhausted, the Remains of the vanquish'd Party often gather Strength, and revive their old Pretensions (e), which a prudent Conqueror will try rather to defeat by Artifice and Temporizing, than to return to open Force, which might re-kindle the War (f).

(2) Who, according to *Onuphrius*, was created the same day with *Innocent II.* and held the Chair 7 Years and 9 Months. *Innocent* was chosen by 17 Cardinals, and *Anacletus* by 21, which seems, with some Reason, to make the Election of *Innocent* very doubtful.

(d) Importune *Lotharius* Rex institit, tempus habere se reputans opportunum, Episcoporum sibi restitui Investituras quas ab ejuldem prædecessore Imp. *Henrico* per maximos la-

bore Rom. Ecclesia vendicarat. Expavescentibus Rom. R. potentiam, murum se opposuit Abbas sanctus, audacter enim resistens Regi, verbum malignum mira libertate redarguit, mira auctoritate compescuit. *In his Life*, by *Allen Bishop of Auxerre*. cap. 18.

(e) Relictis per quos resurgeret bellum. *Tacit. Annal.* 3.

(f) Esse adhuc victis vires, ambiguas, si deliberarent, acres, si desperassent, victoriam consiliis, & ratione perfici. *Hist.* 3. Thus

Thus it happen'd on the present Occasion, the Popes could not gain so absolute a Victory; in a Cause of such vast Pretensions, but that there would yet remain, here and there, some Benefices in the Disposal of Laymen, and that there was still some Prince, who, for Interest of State, would dispose of Bishopricks, without any Regatd had to the Pope's Pretensions.

In *France* the Regale remain'd in Force, which is a Right the King hath of conferring all simple Benefices, or such as are without Cure, that shall fall vacant after a Bishop's Death, untill a Successor be appointed (3).

In *Germany*, the Emperor preserv'd a Right in many Churches *, of presenting one of the Canonries: And several other Princes retain'd likewise divers particular Rights.

The Popes fearing to revive the old Quarrel, and to hazard the losing all the Advantages they had gain'd, if they should attack those particular Customs, or to prejudice the Common-cause, by letting them run on, wisely had Recourse to Negotiations and Artifice. So they bethought themselves of a middle Course, which was to set the Canonists, and other Pen-men, who were in their Interests, on writing, to prove, that Princes enjoy'd this Power by Concession only from the Popes; which serv'd to advance an Opinion, that Princes had no Right whatsoever, but what proceeded from the Grace and Favour of the Popes, and even, to carry the Pretensions of the holy See yet higher: Tho', whatever the Pretensions were, they met

(3) The Regal lasted not King, and had obtain'd Letters only until the Creation of a | of Licence to take Possession.
Successor, but until he had ta- | * Abbas Urspergensis, anno
ken the Oath of Fidelity to the | 1122.

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with a great Disposition in Princes to bear with them; who persuaded themselves, that the Addition of a Title from the Church, strengthen'd their own; that it was a quieting and ensuring the Possession, and putting them under Covert from the Papal Persecutions.

But the Event shew'd how much they were mistaken in the Remedy they propos'd, which prov'd a Poison to the Distemper, and destructive of all Quiet: For about the Year 1300, *Boniface VIII.* had sharp Contests with *Philip the Fair*, King of *France*, to make him renounce the Regale; and the Quarrel went so high, that the Kingdom was brought into a very dangerous Condition, not only by its being laid under Excommunications and Interdictions (g), but by its being made a Present to the Emperor *Albert*, to incite him in his undertaking the Conquest of it.

Those, who at first believ'd it would be for their Interest, to hold that by Concession from the Papal Chair, which was, in Truth, the sole Property of the Princes, did not consider, by what brittle Bands all Apostolick Concessions were held; since no Agreement could ever be found strong enough to

(4) The Author adds, That the King was depriv'd of his Kingdom; but this is easily understood, since *Boniface* gave it to another Prince. Yet this hinder'd not *Philip* and *Albert* from coming to an Interview as good Friends, at *Vaucouleurs* in *Champagne*, where they renew'd the ancient League betwixt the Empire and *France*, anno 1299. and the Year following a Marriage was solemniz'd betwixt *Rodolphus* Son of

Albert, with *Blanch* the Daughter of *Philip*.

(g) *Misso in Franciam Archidiacono Narbonensi Philippum vetat [Bonifacius] quidquam de Ecclesiæ proventibus percipere, qui tametsi Ecclesiæ defensor sit, se tamen Regnumq; Franciæ per ejus contumaciam ad Rom. Ecclesiam esse devotum. Gagvin. lib. 7. de rebus gestis Franc. Vide Paul Æmilius in Philippo palæbo, pag. 169.*

bind

bind Popes, but that they pretend to a Power of revoking, even without a Cause, (not that they ever want Pretexts for one) any Privileges whatsoever, granted by their Predecessors; Besides, that whoever possesseth any thing in his own Right, and yet is contented to acknowledge it as held of Grace from another, may aptly be compar'd to a Man, who leaves his own Ground, to build on another Man's.

On the Contrary, when any Prince, whose Patience was worn out, and grown weary of the Dependance, conferr'd any great Benefice of himself, which the Kings of *England* and *Sicily* did ver frequently, the Popes made no Words of it to the Prince, for fear of engaging too far in Contests; but to prevent any future Prejudice by the ill Precedent, they so wrought by the Monks, that the Elect should renounce all his Right into the Pope's Hands (*b*), who should oblige himself to give them the Investitures; by which Expedient they arriv'd at the peaceable Enjoyment of that, which otherways would have been eternally contested, and have put the Elect in endless Difficulties.

(*b*) Hac ratione, atq; hoc ordine Pontificatus scandere coactus ægre quidem cum multa hæsitatione consensit propter conteptionem illam quæ erat interregnum & sacerdotium causa Investituræ, & electionum Ecclesiarum, quas evacuare sibi vindicare plus æquo nitebatur Imperialis autoritas. Rursus autem verebatur, non sine Divinitatis nutu jam tertio sibi auferri Episcopatum, eumq; si tertio sibi repudiaret, posse in ipsum competere illam sententiam: Nohuit Benedictionem

& elongabitur ab eo. Inter has igitur angustias positus, quod unum salutare existimabat, ad sanctæ & Apostolicæ sedis auxilium confugere decrevit. In ipso igitur articulo, cum adhuc in Aula Imperatoria esset, votum nuncupavit Domino, nunquam se in Episcopatu permanfurum, nisi consentiente & postulante Ecclesia sua, ipsius Pontificis Maximi manu, & consecrari & investituram consequi mereretur. *Anonym. in vita S. Ottonis, anno 1102.*

Of this manner of proceeding, *Florence of Worcester*, and *Ivo of Chartres* *, Writers of that Age, make frequent Mention, as of a common Practice in *Germany* and *France*, where, to use their own Phrase, the Popes took with one Hand, and gave with the other. And it found the easier Admission with the Parties concern'd, because it drew them out of the present Difficulties: And when the King who had presented, came to know it, he was apt to let it pass, since it wrought no immediate Alteration, without considering what Consequence it would have in the End. The Popes also, at this Day, play the same Game against the Catholick Bishops of *Germany*, who refuse to admit their Right of Prevention or Reservations; of which, more shall be said in its proper Place †.

In *Spain*, the sedate and quiet Temper of that prudent Nation, together with the good Government of their Kings, amidst an universal Agitation round about them, preserv'd that Country in a perfect Calm: To which, the Exercise the *Saracens* gave them in those Ages, might possibly contribute, so far as to incline them to live in Union with their Kings, and to make Peace more valuable.

These Kings had never strain'd their Power over the Clergy to any extravagant Pitch, in order to bring them lower; nor had the Clergy ever enter'd into any foreign Engagements, beyond their Duty, to exempt themselves from the King's Jurisdiction. Besides that, when it was evident that the Popes had, either by Force or Terror, or by Intrigues, gain'd Advantages over other Kingdoms, these Princes studied always such Expedients, as might prevent the Effects of these Innovations as much as

* Epist. 190, 191, & 233. 1 † See the Article 39.
possible.

possible. And therefore, tho' Bishops and other Ecclesiasticks had been constantly ordain'd here according to the ancient Usage, yet when the Changes we have mention'd came to be made in other Countries, these Princes would have no Differences with the Popes, but by a wise Temperament, contented themselves with contriving, That no Bishop should be ordain'd, without their Consent: And to secure himself of that Right, *Alphonfus VI.* sought to *Urban II.* for his Confirmation; who granted him the *Jus Patronatus* of all the Churches in his Kingdom (5).

Thus we see the Kings of *Spain* have proceeded in quite another Method than those of *Germany*, *France*, and *England*; for being contented to hold that Precarious, and as of Grace from another, which belong'd to themselves singly, they purchas'd a more peaceable Enjoyment: When others have been a long time struggling and defending themselves against any such Acknowledgement: And yet, both the one and the other acting upon very prudent Considerations.

These saw evidently, that it was the high Road to Subjection, and to lose all; seeing the Demand of the Pope was not an End of his Pretensions, but a Step to much greater. They consider'd their own Subjects, especially the Ecclesiasticks, carried by a Passion for Liberty, that might be call'd Licentiousness: And consequently, as they were always ready to enter into Engagements with Forreigners, to lessen the Authority of their Prince, such a Door ought not to be left open to invite them.

(5) *Platina* saith, That *Urban II.* gave the Pallium to the Archbishop of *Toledo*, and created him Primate of *Spain*, and excommunicated the King of *Galicia*, and all the Province, for having imprison'd the Bishop of *St. James's*.

But in *Spain*, tho' the Confidence which the Princes had in the peaceable Dispositions of their Subjects, gave no Jealousy of their having Recourse to any forreign Interests, yet these Princes had a great deal to apprehend from the low State of their Affairs at that time, and from the Artifices of those who had been already so successful in making the Subjects of other Princes revolt, who far exceeded these in Power: And therefore, prudently determin'd to receive freely, what greater Princes than themselves had been compell'd, after so many Wars and bitter Contests, to submit to.

Finally, in that Space of Time, betwixt the Years 1122, wherein the Emperor *Henry V.* renounc'd the Investitures, and 1145, it became a Rule almost every where establish'd, that upon the Death of the Bishop, his Successor should be chosen by the Chapter *, and confirm'd by the Metropolitan: That the Abbots should be chosen by the Monks †, and then confirm'd by the Bishop, if the Monastery were not exempted, and if it were, the Pope (1) was to be apply'd to for his Confirmation. That the other Benefices, which were *de Jure Patronatus*, should be conferr'd by the Bishops upon the Presentation of the Patron: But that all the rest should be at the intire Disposal of the Bishops.

* See *St. Bernard*, Ep. 22. ad Clerum Senonensem 276. ad Eugen. Papam, & 282. ad Ludovicum Regem Francorum.

† Id. Ep. 381. ad Alexandrum Priorem de Fontibus.

(1) *Matth. Paris* saith, That this was not practis'd in *England*, till after the Year 1257. Eodem anno statutum est Romæ

a Domino Papa, & fratribus Cardinalibus qui vigilanter sua temporalia procurant commoda & emolumenta, aliena non curantes ut quilibet qui in Abbatem exemptum ex tunc eligeretur, Romanam Curiam adiret confirmandus & benedicens. In *Henrico 3.*

There remain'd indeed the chief Election of all, the Popedom, which seem'd not to fall under any Regulation; for, after the Emperor had been excluded from the Election, instead of its returning to the People, which was a Consequence ought to have been expected, *Innocent II.* upon a Quarrel betwixt him and the *Roman* People, in which he was driven out of *Rome*, in Return, took away the Right of Election from the People (*k*).

(<i>k</i>) <i>Innocentio II. scribit Onuphrius, qui pacem quam bellum malebat a Civitatis administratione submoto, novum reipublicæ corpus, præter ejus voluntatem, constitutum est [because the Roman People desir'd to shake off the Yoke of the Priesthood, and re-establish the old Democratical Government] In</i>	<i>quibus controversiis populus Romanus, quod Pontifici rebellis esset, Anathemate notatus, tunc primum a Pontificiis comitiis omnino exclusus. Primus porro, sine ullo populi interventu Papa creatus est, mortuo Innocentio secundo, Cælestinus secundus. Annotat. ad vitam Innoc. II.</i>
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C H A P. XXV.

DURING the Troubles which arose upon the Subject of these Differences, many Cities revolted against the Emperor, at the Instigation of their Bishops, who were in Confederacy with the Pope; and having made themselves the Heads of the Rebellion, became Masters of the publick Revenues, and of the Rights and Royalties belonging to the Crown: And when Things came to be compos'd, they

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they were so well fix'd (1) in those Possessions, that the Prince was oblig'd to grant them the Fiefs of what they had really usurp'd (2): By this Means they acquir'd the Titles of Dukes, Marquisses, and Counts, of whom we find many in *Germany* at this Day, both in Name and in Reality; tho' in *Italy*, indeed, they retain only the Name. And thus we see how vast Secular Estates became Ecclesiastick, [and grew sacred] which receiv'd also a considerable Addition during the other Troubles and Confusions, which happen'd under the Emperors of the House of *Suabia*.

(1) *Tacitus* observes, that it is usual for Usurpers to alledge a long and unjust possession for a just Title.

Regis Appionis agros proximus quisq; possessor invalerant, diutunaq; licentia & injuria

quasi jure & æquo nitebantur. Anno 14.

(2) It was because of these Fiefs, that many Bishops, both *German* and *French*, were oblig'd to go in Person to the Wars.

C H A P. XXVI.

THE Monks in these Days, by interesting themselves, and by their active Appearance, in favouring the Attempts of the Popes against the Princes (1), lost much of the Opinion, which was had before in the World, of their Sanctity.

(1) *Mezeray* saith, that in Consideration of the Services done to the holy See, in the Quarrels with the Emperors, that the Popes honoured the principal Abbots with Episcopal Ornaments, viz. A Miter, a sort of Vestment or Surplice, or Vestment call'd *Dalmatica*, Gloves, Sandals, and then with the Crozier. *Life of Phil. Augustus*.

As,

As, indeed, all Discipline and strict Obedience among them were sunk so low, since they had intruded themselves into the Affairs of State and War, that it put a Stop to the Growth of their Fortunes; except in some little Fraternities newly instituted in *Tuscany*, who made themselves no Parties in these Broils, but preserv'd their Discipline (2): So that these still shar'd in the Peoples Devotion, and still preserv'd the Means of acquiring it, tho' in a very moderate Degree, because of the Poverty of the Country.

(2) *F. Paclò* here tacitely praiseth the Order of *Servites*, whose Habit he wore: For it was about this time that this Order, and many others, were seated in *Tuscany*. Origo est, *saith he, in one of his Letters to M. Gillot, ex Florentia, in ea Civitate Mercatores quidam se* in Collegium coegerunt anno Dom. 1230. Quo tempore ea Regio hujusmodi partium ferax erat. Quod in laudibus B. Virginis cantandis assidue occuparentur --- a vulgo tunc servi B. Mariæ vocati; unde ad nos successores nomen.

C H A P. XXVII.

BUT there was another Incident in the Times of which we have been speaking, which contributed vastly to the Acquisitions of the Church, and that was, The holy War. And Men were so transported with Zeal for Expeditions to the holy Land, and for Contributions towards its Recovery, that losing all Memory of their Wives, Children or Estates, they enroll'd themselves in that Service, sold all they had, and pass'd the Seas. The same Insensibility reach'd even the softer Sex, who, without any Concern for their Children or Families, on this Occasion sold their Inheritances to carry on that War.

The

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The Popes, by Virtue of their Briefs, declar'd themselves, and the other great Prelates, Protectors of the Families and Affairs of all those, who had taken upon them the Crusade (a), (the Term used for those who went to that War against the Infidels): And the Churches drew to themselves all the Profit which usually arises from being Tutors, Trustees, Procurators or Solicitors for Widows, Pupils and Minors. Nor did the Civil Power think fit to make any Opposition, deterr'd by the Censures of the Church, which were then so formidable and fulminated in so great Abundance.

Eugenius III. went yet farther, he ordain'd that every Man might, in Favour of this holy War, alienate even the Fiefs he held; which, if the Lord could not come to take Possession of, the Church might, even against the Will of the Lord:

(a) *Eis qui Hierosolymam proficiscuntur, & ad Christianam gentem defendendam, & tyrannidem Infidelium debellandam efficaciter auxilium præbuerint, suorum peccatorum remissionem concedimus, & domos, & familias, & omnia bona eorum in B. Petri & Rom. Ecclesiæ protectione, sicut à domino nostro Papa Urbano statutum fuit suscipimus. Quicumque ergo ea distrāhere vel auferre quam diu in via illa morantur, præsumpserint, excommunicationis ultione plectantur. Conc. Lateran. sub Calixto II. an. 1122. cap. 11. See the 2d Canon of the Council of Clermont, and the Notes of Mr. de Marca. Ives de Chartres, ep. 173, & 197. William Archbishop of Tires, lib. 1. cap. 15. William de Newburg, lib. 3. cap. 23. Roger Hoveden, p. 639. Matth. Paris an. 1245. Otho of Frisingen, lib. 1. de gestis Friderici cap. 35. & epist. 197. of Innocent III. lib. 15.*

Observe what the Archbishop of Tyre saith, that many Gentlemen went to the holy Land only to get discharg'd from paying their Debts: To which the following Bull of Gregory IX. relates, viz. --- Si qui vero proficiscantium illuc ad præstandas usuras juramento tenentur adstricti, creditores eorum per Ecclesiarum Prælatos, ut remittant eis præstitum juramentum, & ab usurarum exactione desistant, præcipimus compelli. See Matth. Paris in Henrico III. 1251.

Which,

Which, alone, open'd a Way to mighty Acquisitions (1).

It likewise happen'd, that the Popes would employ the Arms design'd for the holy War, in some Enterprizes for enlarging the Temporalities of the Church; and their Legates, and the Bishops of such Places as were the Rendevouzes for the Troops when they were drawn together, would employ them likewise in some Service, for the Encrease of their Temporalities.

To this may be added the large Sums which were drawn from devote People, chiefly from the Women, and others incapable of serving, themselves, in Person; either to free them from the Obligation of some Vow, or to obtain Indulgences and other spiritual Graces: All which, no Body imagines, were laid out in the War; for besides that, there is no doubt, the Princes got some Share, a considerable Part was still reserv'd in the Hands of the Prelates, and so became an Encrease to the Church.

Then follow'd the Institution of the Religious-Military Orders of the Knights, Templars (a), Hospi-

(1) The Crusades, saith Mezeray, render'd the Popes very powerful, for they order'd Princes to enrol themselves in those Expeditions; they retain'd the Sovereign Commands of these Armies by their Legates, and they became, in some sort, Lords in Chief of all those who went to the Crusade; not only because the Popes exacted Obedience from them, but because they took the other under their Protection till their Return, which was like Letters of State, and suspended all civil and criminal Proceedings. Mezeray in the *Life of Phil. Augustus*.

(a) Templariorum militum ordo institutus anno 1118. Hierosolymis ab Hugone de Pagonis & Gaufrido de Aldemaro: Horumq; fuit primitus professio, ut vias & itinera maxime ad salutem peregrinorum contra Latronum & incurfantium infidias pro viribus conservarent. Cum autem 9 annis post eorum institutionem in habitu fuissent seculari,

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Hospitalers, &c. to guard the Temple of *Jerusalem* (b), protect the Pilgrims who resorted thither, and to fight against the *Saracens*. And tho' Religious Institutions toshed Blood, seem'd something new, and not easily to be reconcil'd, yet they were embraced with such a Fervour, that the Orders grew to immense Riches in a very small time, and consequently, all together, were vast Articles of Encrease in the whole.

seculari, in concilio Trecenti data fuit eis regula & habitus assignatus fuit, albus viz. de mandato Honorii Papæ, & Hierosolymitani Patriarchæ. Post modum vero sub Eugenio Papa cruces de panno rubeo, ut inter cæteras essent notabiliores, asuere cœperunt, tam equites, quam eorum fratres inferiores, qui dicuntur servientes. Atq; hi quoniam juxta templum Domini in Palatio Regio mansionem habebant, fratres militiæ templi seu Templarii appellati sunt. *Cangius in Glossar. ex Willielmo Tyrio, lib. 12. cap. 7.*

(b) Terra illa promissionis, lacte & melle fluens, non solum religiosos clericos, sed etiam

laicos tam milites quam alterius conditionis, ut in ea relictis parentibus & propriis patrimoniis regulariter viverent, incitavit attraxit & illexit, quorum quidam hospitalarii, sive fratres hospitalis S. Joannis, alii fratres militiæ templi, alii fratres hospitalis Sanctæ Mariæ Teutonicorum in Hierusalem nuncupantur. *Jacob. de Vitriaco, cap. 64. Hist. Hierosol.*

But in the Year 1313, the Order of Templars being abolished, their Goods were given to the Hospitalers: Which is related at large by the Continuer of the Abbot *Urspergensis*, pag. 28.

C H A P. XXVIII.

ANother considerable means of Encrease, was a strict Review made concerning the Business of Tythes, proceeding by Censures against those who did not pay them, and compelling the Payment, not only of the Predial Tythes, but of mixt Tythes also; that is to say, besides those of the Fruits of the Earth and of Cattle, Personal Tythes, which proceed from human Industry and Labour.

To this Enforcement of the Payment of Tythes, they added also the First-fruits: These were first instituted by *Alexander II.* in Imitation of the Mo-
saick Law, which enjoin'd them to the *Jews*; but *Moses* had not determin'd the *quantum*, but left it at large, to the Pleasure of those who offer'd them. Since that, the *Rabbins*, as *St. Jerom* informs us, have determin'd, that these Oblations should not be under a 60th Part, nor above a 40th; which is a Rule our Churchmen have follow'd in the most gainful Way, adjudging that to be the 40th Part only, which, in our Days, is call'd the Fourth.

About the Year 1170, *Alexander III.* order'd Proceedings by Censures, to enforce the intire Payment of Tythes of Mills, Fisheries, Hay, Wool (1), and Bees (2): And that the Tythes of every Thing should be paid, before the Charges in gathering the

(1) Mandamus quatenus Pa-
ræcianos vestros monere curetis,
& si opus fuerit sub excomuni-
cationis districtione compellere,
ut de potentibus molendinarum,
piscinarum, feno & lana deci-
mas Ecclesiis quibus debentur
cum integritate persolvant.

*Decret. 3. tit. de decimis, &c.
cap. 5.*

(2) Mandamus quatenus pa-
ræcianos tuos de apibus, & de
omni fructu decimas persolvere
ecclesiastica districtione compel-
las. *Ibid. cap. 6.*

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Fruits (3) should be deducted. And in the 1195, *Celestin III.* decreed, under Pain of Excommunications, the Payment of Tythes, not only of Wine, Grains, Fruits, Trees, Cattle, Gardens, Merchandises, Soldiers Pay, Hunting (4) and Wind-mills (5); All which are express'd in the Decretals of the Popes: But the Canonists have gone much farther, affirming, that the Poor who beg about the Streets, are oblig'd to pay the 10th of all the Alms they get, and Common-Women likewise a Part of their infamous Gain: With some other laudable Fruits of the same Nature, but which have never yet obtain'd to be put in Practice.

Tythes were assign'd to the Ministers, in Consideration of their Services they perform'd, in teaching the Word of G O D, and administering the Sacraments; since nothing else was paid them for these Functions: Except where some devout and rich People would give sometimes out of meer Bounty, for the burial of their Relations, or for

(3) Cum homines de Horta de frugibus decimam ecclesiæ cujus parochiani sunt sine diminutione solvere teneantur, & antequam id faciant, mercenariis suis de frugibus, non decimatis debita totius anni, pro servitio suo impendant, tunc demum de residuo decimam persolventes: Mandamus quatenus eos cogatis ut decimam statim fructibus collectis persolvant. *Ibid. cap. 7.*

(4) Revera sicut sancti patres in suis tradiderunt scripturis, de vino, grano, fructibus arborum, pecoribus hortis, negotiatione, de ipsa etiam militia de venatione decimæ sunt, mi-

nistris Ecclesiæ tribuendæ, ita ut qui de his eas solvere neglexerint, ecclesiastica, districtione debeant percipi. Volumus ergo & districtè præcipimus quatenus decimas Ecclesiis cum integritate debita persolvatis. *Ibid. cap. 12.*

(5) Quia fidelis homo de omnibus quæ licite potest acquirere decimas erogare tenetur: Mandamus quatenus H. militem ad solutionem decimarum de his quæ de molendino adventum proveniunt sine diminutione aliqua compellatis. *Ibid. cap. 23.*

Admini-

Administration of the Sacraments; which Generosity, in time, turning into a Debt, and a Sum certain, created a Dispute; the Laicks refusing to pay for the Administrations of the Sacraments, because the Tythes they paid were design'd for that Purpose, and the Ministers refusing to perform their Functions, if they had not what they pretended was their Due.

About the Year 1200, *Innocent III.* apply'd a Remedy to this Evil, first by forbidding the Priests to make any Bargain for performing their Ministry, or to refuse officiating to those who refus'd to pay: And then by providing, that after they had so officiated, the Laicks should be compell'd, by Censures, to keep up the laudable Custom (for so it is term'd) of paying what was customary (6): In which great Difference was made betwixt forcing the People to comply with a Bargain, and a Compulsion by Censures after: The one being condem-

(6) Quidam laici laudabilem consuetudinem erga sanctam Ecclesiam introductam nituntur infringere. Qua propter pravas exactiones fieri prohibemus, & pias consuetudines præcipimus observari: Statuentes ut libere conferantur, ecclesiastica sacramenta, sed per Episcopum loci, veritate cognita compescantur qui malitiose nituntur laudabilem consuetudinem immutare. *Decret. lib. 5. tit. de Simonia. cap. ad Apostolicam.*

This Constitution having been quoted in the Council of Trent, *John Maria del Monte*, first Legate, said, It was doing great Injury to the Pope and

the Council of *Lateran*, to believe so great an Abuse was authoriz'd by them: And that who would read the Chapters preceding this, would find that the Council had condemn'd this Custom: And that in the same Chapter he did not approve the Usage of Gifts or Offerings at the Administration of the Sacraments, but only certain laudable Practices establish'd in Favour of the Churches, as Tithes, First-fruits, Offerings at the Altar, &c. As *Bartholus* and *Giles de Roma* have interpreted it. *Fra. Paolo, lib. 2. Hist. Coun. of Trent.*

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ned as Simonical, the other being justify'd as lawful (7).

(7) If therefore those who serve at the Altar, after the Offices perform'd, have a Right to exact a Salary, and can employ spiritual Arms against those who refuse it: By the same Rule, when the People have paid the Temporalities which they ow'd the Church, they may maintain themselves by Force, in the Possession of the Spiritualities, which it has endeavour'd to deprive them of; and say with the Maccabees, *Nos pugnabimus pro animabus nostris, & legibus nostris.* 1 Maccab. 3.

C H A P. XXIX.

ANother Novelty, contributing greatly to their Wealth, was introduced at this Time. It had been prohibited by the ancient Canons, to accept any Donations or Legacies from divers Kinds of publick Sinners, such as sacrilegious Persons, Curtezans, and those who were at Variance with their own Brothers (a). But all these Difficulties were intirely remov'd, and all Gifts, from what Hand soever they came, were indifferently receiv'd.

(a) Oblationes dissidentium fratrum neq; in sacrario neq; in gazophilacio recipiantur similiter dona eorum qui pauperes opprimunt, a sacerdotibus refutanda sunt. *Canon 93. Concilii Carthag. 4. apud Gratian dist. 90. Can. 2.*

The Reason why these sort of Offerings were not receiv'd, was, accordig to *Salmasius*, Quia ex Canone 37. Codicis Ecclesiæ Africanæ liquet primitias in Altari offerri solitas & suam habuisse propriam benedictionem. Non igitur pium aut sanctum visum est Patribus antiquis, Deo rite consecrari, & benedici quas a Peccatoribus offerrentur. Hinc Canon. 28. Concilii Illiberitam: Episcopum placuit ab eo, qui non communicat, munus accipere non debere. *Vide Mendozum in hunc locum.*

And

And it is even evident in Practice, that the greatest Part of Legacies and Donations bestow'd on the Church, are owing to the Bounty of infamous and Publick-Women (1), or of People who are gratifying that way their own particular Quarrels with their Relations.

The Popes set all their Wits on work to facilitate and encourage these Acquisitions, as well as to preserve the Power of disposing them, as we have shew'd, which had with so much Toil and Blood been wrested out of the Princes Hands, and transferr'd into the Clergy's. To this the whole Ecclesiastical Order, induc'd by their own Interest, not only consented, but concurr'd with their utmost Assistance in their Preachings and Writings, continually inculcating that the intermeddling at all in the Distribution of Benefices, and particularly in the Election of the Pope, had been the Effect of Tyranny in Princes, and Usurpation in the People. And in our Days *Baronius*, throughout all his Annals, upon all Occasions, and with great Earnestness maintains, That for Princes to Interest themselves in the Election of Bishops, and especially of Popes, is an impious and tyrannical Usurpation. Not considering, that the best Popes have all along been those whom the Princes have made; and every time that the Ecclesiasticks have had the Elections to themselves, without any Lay Mixture, infinite Disorders have ensued.

But that which is most observable is, that the Popes of the holiest Lives, and Emperors whose Memories will be eternal, have recommended this Practice, and judg'd it necessary. Neither can it

(1) A *Venetian* Priest told Church, that they might be once pleasantly, That the allow'd to be Christians. Whores left their Estates to the

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now consequently be censur'd, without casting Reflections on the Memories of 24 Popes of the best Livers, and among others of St. *Gregory*, and without condemning the ancient Doctrines of the Councils and the Fathers.

C H A P. XXX.

IF the Churchmen had at first discern'd the Consequence of attempting to take away the Investitures from Princes, they would scarce have been drawn into such an Innovation: But they thought to have found their own Interest in it, and a Means of being more Independent. Thus the first Usage came to be renew'd, of bestowing all the Benefices within their proper Diocesses, by Election of the Chapter and Collation of the Bishop. The Pope likewise kept to this Rule, without pretending to any Donations out of the Diocess of *Rome*; except in Case only where a Prelate, whom Devotion or Business had carry'd to *Rome*, and happen'd to die there (1); and that some Person of very eminent Merit, of the same Nation, were found in his Company or Retinue: Him the Pope immediately would name in Place of the Deceas'd, and send him back with Letters of Condolance to the Diocess or Monastery, on their Loss, and Consolation on the Person he had sent to succeed. This found the easier Compliance in the Chapter or the Monastery, as it happen'd but very rarely, and as it pass'd rather as a Favour from the Pope: Besides that, there ap-

(1) These Benefices were | Article 35. of this Treatise, and call'd *Vacantes in Curia*. See Chap. 2. *de prebendis in Sexto*.
pear'd

pear'd no Room for Exception against a Man of Merit, and of the same Country.

But if the Pope had not fill'd up the Vacancy before the News of it came to the Place, they waited no longer, but forthwith proceeded to Election according to Custom: And in no other Case did the Pope dispose of any Benefices out of his Diocess.

In the mean time, as the See of *Rome* had merited so highly of the whole Clerical Order, in having with so many Labours, Dangers, and the Effusion of so much Blood, purchas'd the sole Disposition of Benefices, to the total Exclusion of Prince and People, both which had, in their Turns, been in Possession of that Right; the People first, when Benefices first began, and the Princes for a long time after; so the Bishops held the Pope's Friendship in the Esteem it deserv'd, and sought to make him all the Returns in their Power: And this encourag'd the Popes to deal with the Bishops after the Example of the Emperors, and to recommend a Clergyman now and then to be provided with a suitable Benefice.

At first these sorts of Requests gave great Alarms to Princes, who plainly saw, by this means, a Gate open'd to introduce Strangers into the Benefices of their Dominions: Yet they met with all the Compliance that could be expected from the Bishops, who being big with nothing so much as the Design of excluding the Princes, were not aware, that in depriving them, any other Power could step in betwixt themselves and the Collation of the Benefices. And yet the Profits which the Court of *Rome* drew from these sort of Recommendations, in the Presents which were made to obtain them, and from the Bulls which were made on these Occasions, so multiply'd these Prayers and Recommendations, and brought them on so thick, that the Bishops became

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depriv'd almost of all their Collations (2), which oblig'd them, sometimes, to refuse their Compliance.

But the Popes found a Remedy for this too, by adding Commands to their Requests, which indeed enforc'd Obedience at first, but becoming also too frequent, the Bishops, at last, lost all Patience, and without having any Regard to Commands, or the Censures contain'd in them, or without observing any farther Measures, bestow'd the Benefices as they thought most agreeable for their own, and their Church's Interest; And then the Pope found it requisite to appear contented, and to pardon them for that time, as for a thing already done, for which there was now no Remedy.

But the Channel which this Corruption had found, would easily have been stopp'd, if this Court had not thought of a farther Expedient still, which was, to accompany these Prayers and these Commands with some Person who was sent to see them put in Execution, and to confer the Benefice, if the Bishop did not, as well as to punish him for his Disobedience. Yet the Popes came but slowly to these Extremities, and when the Contumacy of the Bishop made it necessary. But in the End, to shorten the Proceeding, they expedited the Prayer, the Command, and the Execution of them, all at once.

(2) They deserv'd it well for having abandon'd the Interest of their Princes, and espous'd a forreign Power: The Popes had humbled the Emperors before, in taking from them the Right of Investitures, and it was but reasonable that the Bishops, who had join'd with the Popes in it, should have their Turn in being mortify'd.



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This gave the Church and the Bishops an unspeakable Vexation (3); and the Princes and Nations where these things were acted, complain'd loudly, not only that their Rights were taken away, but that the Benefices, which by long Prescription had been given only to Natives of the Country, by this Means fell all into the Hands of Strangers (a), who resided at the Court of *Rome*. Which had often this Consequence, that Bishops and Parish-Priests were made, who understood not the Language of their Auditors, and which they were very unapt to learn, being so different from their own; many *Italians*, for instance, being benefic'd in *England*.

At length the Evil grew so notorious, that the Pope was oblig'd to take Notice of it, and to forbid

(3) They complain'd (saith *Mezeray* in the Life of *Phil. Augustus*) that the Popes depriv'd them of a great part of their Authority, which belong'd to them as Successors to the Apostles, by taking to their own Tribunal the Knowledge of all Causes, leaving almost nothing to the first Cognizance of the Bishops; by granting Dispensations of the holy Canons, as if all Ecclesiastical Discipline depended meerly on their absolute Pleasure: By granting Exemptions to Inferiors, thereby to draw them from the Obedience to their Superiors; and by their engrossing to themselves the greatest part of the Benefices.

(a) Beneficiorum Ecclesiasticorum peculia manus occupant indignorum, & nonnunquam

exterorum & plerumq; dignitates & beneficia notabilia personis conferuntur incognitis & non probatis, quæ in iisdem beneficiis non resident sicq; vultus sibi commissi gregis non agnoscunt, linguam aliquando non intelligunt: Quinimo animarum cura neglecta velut mercenarii solummodo temporalia lucra quærunt. *Premii Pragmaticæ sanctæ*. pag. 34.

Panormus, tho' an Italian, complains thus of the Abuse, Effet, saith he, valde honestum & fructuosum, ut quisq; in patria sua beneficiaretur, ut sic unus non occuparet beneficia vel stipendia alterius, nec daretur materia depauperandi beneficia, & quia inducuntur facilius ad residentiam tales indigenæ quam Extranei. *Chapt. ad Decorem, de Institutione*.

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any one to possess a Benefice, and especially a Parish-Priest, who understood not the Language of the Country : But then reserving to themselves that Invaluable Power of Dispensation, their Prohibitions had no other Effect, than instead of curing these Disorders, to raise the Prices of committing them, to the manifest Profit of the Court of *Rome*, which was always ready to grant Expectatives or Reversions to Forreigners and Strangers, and after that a Brief of Dispensation.

But whatever Scandal this Exorbitancy of Power in the Court gave to good Men, it was, however, very agreeable to many of the Clergy, and others, Suiters and Candidates for Benefices, who lay fetter'd under some Canonical Impediments, which made them incapable. No Bishop durst prefer Men under these sort of Marks, with-held by a just Respect for the Canons : But what was too scandalous for Bishops, the Pope took upon him without any Scruple, by Virtue of that dispensing Power, which could admit of no Stain, which he apply'd to the dissolving all the Canons and Ecclesiastical Constitutions by a certain Formula, *De Plenitudine Potestatis*, and the Clause *Non obstantibus* ; Phrases unknown and unheard of in so many foregoing Ages, but which are now the Stile of every beneficiary Bull. Nay, on the Contrary, Popes in the best Times, and in the stricter Ages of Piety, valu'd themselves on a stricter Observation of the Canons, which related to the Distribution of Benefices in the Diocess of *Rome*, than any other Bishop's. And we find *St. Leo* and his Successors placed one of their chiefest Glories in the punctual Execution of the Canons, first as to their own Parts, and then in exacting it from others. Nor let it be answer'd, that these had less Authority ; sure we are, they had a larger Share of Vertue and Wisdom, which made them Cowards
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in every Action that was not allowable to others : Whereas, since those Days, every thing seems privileg'd at *Rome*, which no Body dar'd to do any where else.

St. Bernard, who liv'd about the Time when these Novelties were introduc'd, tho' they had not then prevail'd so far as they have done since, reproves them sharply : Writing to *Eugene III.* he laments that *Rome* was the common Rendevouze for the Ambitious Man, the Covetous, the Sacrilegious, the Adulterer, and the Incestuous, who all resorted thither in Pursuit of Benefices (*b*), and where they met with a Reception, they could have no where else ; no place, but *Rome* alone, putting a Sanction upon Things illicite and illegal, and which had always been so reputed, giving them a Passport through the World.

The Popes themselves could not deny the Grievance, which the granting Expectatives was to the Churches : *Gregory IX. Cap. Mandatum de Rescript.* openly avows it, and on this Occasion therefore, he qualify'd these Expectatives, by inserting this Clause, viz. *If we have not already writ for another* (*c*)

(*b*) Nec mihi opponas nunc Apostoli vocem qua ait, cum essem liber, ex omnibus omnium servum me feci : Longe est istud a te, nunquid hac ille servitute hominibus inserviebat in acquisitione turpis questus? Nunquid ad eum de toto orbe confluebant ambiciosi, avari, simoniaci, sacrilegi, concubinarij, incestuosi, & quæq; istiusmodi monstra hominum, ut ipsius Apostolica autoritate vel obtinerent honores Ecclesiasticos vel retinerent? Ergo servum te fecit homo, cui vivere Christus erat & mori lucrum, ut plures

lucris faceret Christo, non ut lucra augeret avaritiæ. *Cap. 4. lib. 1. Consider. a Eugenium.*

(*c*) Mandatum Apostolicum ad te directum ut magistrum S. faceres in Canonicum recipi, & in fratrem Novient. Ecclesiæ; si pro alio ibidem non scripsimus, qui hujusmodi gratiam prosequatur, alio jam beneficium per nostras literas obtinente, prosequi non teneris, nam super receptione duorum, gravandi Ecclesiam non fuit intentio mandatoris. *Decret. lib. 1. tit. 3.*

which

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which was a way of fixing a Custome as a Right, that every Pope might grant one Expectative in every Church, and no more.

And since that, they have brought it into a Custom also, at their Entrance into the Popedom, to revoke the Expectatives granted by their Predecessors, either to make Room for their own, or to oblige those who had them before, to purchase them over again. And sometimes also they revok'd those which themselves had granted, to oblige the Grantees to the Expence of new Bulls to confirm their Title.

As for elective Benefices, such as Bishopricks and Abbies, there they granted no Expectatives in those Cases, there being no Examples or Precedents of Princes having ever granted any. But the Court of *Rome* found out other Expedients to draw to themselves the Collations of these Prelatures, in prescribing many Conditions which were to be observ'd before Election, and others during the Election itself; besides divers Qualifications requir'd in the Person elected himself *: And if the Electors fail'd in any of these Conditions, they were for that Time depriv'd of the Right of Election, and so it lap'd to the See of *Rome*.

And then as Difficulties would often arise concerning the Validity of Elections, from the Variety of Interests in the Electors, or from other Causes, one of the Parties would appeal to *Rome*, and so Occasion would very often be taken to judge them both in the wrong: The Election being thus vacated, was another Means of making the Collation

* Vide *Cap. 25. ex de electi-*
one & electi Potestate.

of the Bishoprick or Abby, lapse also to this Court (*d*).

Lastly, when the Pope understood there was a good Bishoprick or Abby vacant, he immediately dispatch'd an Injunction not to proceed to Election without his Knowledge ; and so under the specious Care of preventing or remedying any Disorders that might happen, he sent some Man of Address to assist and preside at the Election, who, by divers Arts and Cabals, procur'd it to fall upon him, whom the Court of *Rome* thought most in their Interests.

(*d*) Vix enim remansit aliquis Episcopatus, sive dignitas Ecclesiastica, vel etiam Parochialis Ecclesia quæ non fieret litigiosa & Romam deduceretur ipsa causa. Sed non manu& vacua lætare super iniquitatem filiorum hominum, quoniam in recompensationem tantorum malorum datur, tibi pretium. *Abbas Urspergensis in Philippo.*

The new Law or Doctrine (saith *Meziray*, in the Life of *Philip Augustus*) having perverted all the ancient Canons, and

reduced all Elections to the Tricks and Subtleties of the Law, as there often happen'd Contests, what with Intrigues among the Electors, and Difficulties started upon the Judgment of the Metropolitan, one of the two Parties never fail'd to appeal to *Rome* ; which was an inextricable Labyrinth of Proceedings: And for want of some Form in the Election, the Pope declar'd it null, and reserv'd to himself the Right of providing for the Bishoprick.

C H A P. XXXI.

THUS by the foregoing Accounts it appears, that few Elections to Bishopricks or Abbies were made, which fell not under Consideration at *Rome*, so that the Pope came to intermeddle, almost in all Elections, after they were over, under the Mask of an honest Concern for the Publick Interest, and in that the Electors oftentimes fail'd in some Points of their Duty ; it seem'd a favourable Opportunity to afford his Assistance in Elections, even before-hand ; commanding, when he saw Cause, either that the Electors should not go to Election till they had his Leave, or not to elect without the Concurrence of some Persons sent by him, to attend it ; so that by diverse Contrivances they still assum'd some Share in the Elections.

And yet these Methods which were differently put in Practice, according to the Exigency of the Case, had not the Force of a Law, but rather of Custom and Decency, until the Year 1227, when *Gregory IX.* following the Examples of *Theodosius* and *Justinian* ; the former having form'd the Constitution of the Empire, by collecting his own Ordinances, and those of his Predecessors into one Volum, which was afterwards call'd the *Theodosian Code* ; the latter having accommodated likewise the ancient Laws to the Usage of his Times, and reduced into one Body the Decrees of his Predecessors, under the Name of the *Justinian Code* ; after their manner form'd a Policy or Constitution of his own, collecting into one Body all the Decisions, and all the Causes which serv'd to advance the Papal Power ; and extending that to general Usage, which had been settled in one particular Place, and perhaps in one Case only, and abolishing and destroying all the rest, which made
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This Book was call'd, *The Decretals* of Gregory IX. (a), who thereby laid the deepest Foundation of the Papal Monarchy, especially in what concerns Benefices: But it must be allow'd, that this Book is much more edifying in the skilful managing of a Law-suit, than in the Salvation of Souls.

Gratian, as well as the other old Collectors of the Canons, made a Collection of all he thought might most contribute to the aggrandizing the Papal Authority, even to the changing, vitiating, and even falsifying the Places from whence he drew the Decisions (1): By which Means he thought he had done his utmost to wind up this Power to the highest Pitch it could possibly bear: And according to the State of those Times, he was not mistaken; but a Change of Circumstances in Affairs, made this Compilation no longer seasonable: And so to this Decree or *Decretum* (2) of *Gratian*, which was

(a) It was compil'd by his Penitentiary *Raymond de Penafort*, a Dominican, whence it came to be call'd also, *The Compilation of Raymond*: It is also call'd *Extra*, because it is separated from the Decree compil'd by *Gratian*; and also, the *Penitenteugh*, because it contains five Books, distinguish'd in this Distick, *Index, Judicium, Clerus, Sponsalia, Crimen.*

Hæc tibi designant, quid quæque volumina signant.

It began to be in use in the Year 1231. Gregory IX. was Nephew to *Innocent III.* and both of the noble House of *Conti*, at this Day one of the

four, who have the Title of Roman Barons.

(1) A French Lawyer saith, that the *Decretum* and the *Decretals sunt Compilationes ac Farragines tum bonarum tum pravarum rerum incendite & imperite coercervate.* Gentillet. ex Concil. Trid. lib. 5.

(2) Which was approv'd and publish'd by Pope *Eugene III.* in 1151, and according to some Authorities only under the Pontificate of *Alexander III.* *Gratianum Compilationem Decreti Alexandri III. Pontificis temporibus quidam ascribunt*, saith *Platina* in the Life of *Innoc. III.* to whom others attribute the Publication of the Decree; as *Platina* also observes in the same Place.

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call'd after him, succeeded the Decretals ; but neither of which in Process of Time grew to signify much : The Popes, as they grew in Authority, establishing still new Orders and Regulations ; so that neither the *Decretum*, the Decretal, nor the *Sextus* (3), were any longer of use as to Benefices, but other Rules and Methods came in Request, as will appear hereafter.

(3) It is a Book so call'd, because it is a Supplement to the five Books of Decretals. It was publish'd by *Boniface III.* in 1298. from whence it is call'd, *Codex Bonifacianus.*

C H A P. XXXII.

THE large Opportunities which the Court of *Rome* had in their Hands of obliging, by the Disposal of so many Benefices, drew necessarily thither a Concourse of the Clergy of all sorts. Those who had no Benefices, in order to obtain them ; and those who had already, to get them chang'd for better : Which was another Reason added to the former, why so many Residentiaries resided not upon the Place. And the Court not being any longer able to pretend Ignorance of so loud and general a Complaint which every Diocese made, That the Churches were abandoned, and left without Government ; and of which they laid the Blame in the right Place, a Resolution was taken to apply some Remedy.

But the Popes of that Age thought it not advisable to proceed by Punishment, as had been heretofore practis'd ; whether it were that the Guilt was grown too general, or that the Court of *Rome* must

must have been deserted by so severe a Remedy, as that of sending so much Company out of *Rome*: To which another Consequence might be added, that People would generally have chosen rather to have made their Court to their own Bishop for Benefices, than to lay out their Money at *Rome*, in Expectatives or Reversions. An Expedient was therefore found, to make a Law to enjoin Residence to such certain Beneficiaries [who were under so unlucky a Planet] as to have little Interest at Court: And so these stood condemn'd to stay at home, without making any mention of the rest (1), who therefore fell not within this Rule. Thus in the Year 1179, *Alexander III.* order'd Residence to all Beneficiaries that had Cures of Souls*; to whom afterwards were added and taken into the Number, all who had Dignity, Administration, or Canonry.

As for other inferior Beneficiaries, it was never affirm'd that they were not oblig'd to Residence, but neither was it commanded them, and so by Degrees they began to think it not incumbent on them. Hence grew the Distinction betwixt Benefices that oblige to Residence, and others call'd simple Benefices, which oblige to none. Afterwards the Doctors declar'd, that in Strictness, and of Right, all Benefices oblige to Residence; as indeed they cannot say otherways, without giving the Lye to all Antiquity; but that long Custom only hath excepted simple Benefices.

According to the Signification of that common Maxim, *Beneficium datur propter Officium*, simple Be-

(1) Silence in this Case, saith *Fra. Paolo*, they believ'd exempted them from Residence; and the Popes were willing it should be so understood, in the Hopes that the voluntary Ignorance of these Beneficiaries should turn to their temporal Greatness. *Lib. 2. Hist. of Council of Trent.*
 * Vide cap. 4, & 6. Extra de Clericis non residentibus.

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nefices must seem an useleſs Station in the Church; ſince thoſe who were abſolv'd from Reſidence, ſeem to have no Buſineſs left. But here they have been forc'd to take in Aid, a meer Equivocation: For the *Hora Canonicales*, which before were celebrated in the Church by all the Congregation, and which ſome Perſons afterwards took the Liberty to perform privately, began about the Year 800 to be call'd *Officium Divinum* (a). And this Office or Service being by all Believers perform'd either in Publick or private, they ſaved the Appearaucés of this Propoſition, *Beneficium datur propter Officium*; as if repeating Divine-Service were all that were underſtood by it; when in Truth, ſerving the Faithful, in reſiding at the Churches, and exerciſing the Miniſtry in all Chriſtian Offices, as was done of old, is in Truth that *Officium*, for which the *Beneficium* is intended (2).

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(a) Presbyter mane matutinali officio expleto, penſum ſervitutis ſuæ canendo, primam, tertiam, ſextam, nonamq; perſolvat, ita tamen ut poſtea horis competentibus juxta poſſibilitatem, aut a ſe, aut a ſcolariibus, publicè compleantur.

Theſe are the Words of *Reginon*, Author of the 10th Age, chap. 208. lib. 1. of his Collection. As for the Office of the holy Virgin, *Gaufridus Vefienſis* ſaith, they were not ordered till the Year 1095.

Anno Dom. 1095, Urbanus Papa in Gallias veniens, Gregorii Papæ decreta renovat, & confirmat --- Claromonte in Arvernina Concilium celebrat,

menſe Novembri hoc anno ſequenti, in quo ſtatutum eſt, ut horæ beatæ Mariæ quotidie dicantur, officiumq; ejus diebus Sabbati fiat. In *Chronico*, cap. 27.

(2) In the primitive Times, ſaith *Fra. Paolò*, the Eccleſiaſtical Degrees were not Dignities nor Honours, as they have been for ſome Ages, but Charges and Miniſtries, which *St. Paul* calls Labours and Functions, and *Jeſus* calls Labourers, [Opus fac Evangelistæ, miniſterium tuum imple, 2 *Tim.* 4. Siquis Episcopatum deſiderat, bonum opus deſiderat, 1 *Tim.* 3. Meſſis quidem multa, operarii quidem multi, *Matth.* 9. & *Luke* 10.] So that in thoſe Days

The Consciences of many Beneficiaries being thus secured from any Scruple, in absenting from their Churches, it was also thought necessary to find an Expedient, even for some of those Beneficiaries who were oblig'd to Residence, to stay at *Rome*, when their was Occasion, without breaking the Laws.

Days none could have the Thought of absenting; and if any one did, he could neither keep the Title nor the Profits. --- Besides, none took an Employment which hinder'd the Functions of his Ministry --- And it is only since the Year 700, that they began to appropriate the Title and Profits of a Cure, upon occasion of the Changes which happen'd in the Western Churches, where Ecclesiastical Ministeries degenerated into Dignities, Honours, and even into Rewards for Services. And whereas before, they called none to the Ministry, but such as were proper to officiate, it became afterwards a Custom to give the Dignities of the Church according to the Quality of the Person: Whence came the Abuse of doing the Duty by a Deputy; and that produced another Abuse, which was to think one's self dispensed with, not only from officiating in Person, but even from being present, and to rely on his Substitute. And the Distemper had grown so great, as to have endanger'd the very Clerical Order being destroy'd, if the

Popes had not commanded the Bishops and Curates, tho' they acted by Deputies, to reside upon the Place, which is call'd Residence; to which the Canons were also oblig'd, without speaking of any other Beneficiaries: From thence came the detestable Distinction of Benefices of Residence and Non-residence; which is authoriz'd both by the Doctrine maintain'd and the Practice. And yet there cannot be a more manifest Absurdity, than to have a Title and a Salary, without being oblig'd to do any thing for it.

But to palliate this, the Canonists have said, That the axiom *Beneficium datur propter Officium*, which condemns Non-residence, signifies only, That the Benefice is given for saying Divine Service only; so that when the Church yields a Revenue of ten thousand Crowns and more, 'tis only that the Beneficiary may say the Breviary very low, without thinking of any thing, more than running over the Words. *Hist. Council of Trent. lib. 2.*

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For this End *Honorius* III. about the Year 1220. declar'd, that whoever was in the Pope's Service, should not be oblig'd to reside (3): So then there wanted but one Expedient more, by which all those who had rich Benefices, with a Cure of Souls, might be set at Liberty, and exempted from Residence. Neither did this Expedient fail likewise, for it being an ordinary Practice for a Curate, when he had a lawful Impediment, to appoint a Vicar to serve in his Room, allowing him a competent Stipend; it was thence determin'd, that with the Pope's Authority the Curate might creat a perpetual Vicar (1), settling a reasonable Allowance upon him; and oblige him to Residence, tho' the Curate remain'd unconfin'd, and retain'd the best part of the Income to himself: So that, by this Means, in Effect, his Share became a simple Benefice; and the Vicar's Share became a Provision for the Curate.

And as giving a Benefice for any other Consideration than for the Sake of the Office, (by which was understood officiating in Person) was unknown to the ancient Church, so two Offices were never assign'd to one Man; both because of the Impossibility of performing them in two Places, and that

(3) Mandamus quatenus non obstante constitutione quæ contra absentes Canonicos inter vos (he speaks of the Chapter of Metz) dicitur emanasse, fructus præbendæ suas assignetis Mag. Ottoni, in nostro servitio commoranti; cum familiares nostri qui circa nos se obsequiales exhibent universi, minori non debeant prærogativa gaudere, quam vestrum singuli, quorum negotia per se ipsos sæpius promoven-
tur.

(1) It appears by several Passages in the History of *Mat. Paris*, that Vicarages became in use throughout *England* sometime before the Council of *Lateran*, under *Alexander III.* And for that Reason, the first three Chapter *Extra de Officio Vicarii*, are address'd to the Bishops of *England*. See Mr. *Pithon*, ad cap. 1. *extra de Officio Vicarii*, and *Thomas Walsingham*, pag. 275.

the performing one well, was always reputed by these Holy-men a Task sufficient : Besides that there are many Canons which refer to ancient Statutes, by which a Clerk cannot be ordain'd to two Titles, nor serve in two Churches (a).

(a) Et in illo titulo perseverent, ad quam consecrati sunt, ita ut nullum de alterius titulo presbyterum aut diaconum suscipere præsumat Conc. Calchutense, an. 787. cap. 6. Conc. Renense, an. 813. cap. 20. Conc. Metense, an. 888. Can. 3. Canon. 2. § 1. distinct. 70. ex concilio Urbani II. habito Placentiæ, an. 1095. & Can. 1. Caus. 21. q. 1. ex 7ma Synod. cap. 15. an. 787. Even among the Heathens, the Priests were oblig'd to Residence, Quosdam exilia, saith Seneca, quosdam sacerdotio uno loco tenent de tranquillitate vitæ. Visus est sibi quis, saith another Pagan, ad firmamentum templi Neptuni catena alligatus esse ; factus est sacerdos Neptuni ; oportebat enim ipsum inseparabilem esse sacerdotem. Artemidor, lib. 5. de somniorum eventibus, Somnio 1. Vide Ulpianum in leg. 2. ff. de in jus vocando. & leg. pen. ff. de vacat. & excusat. muner.

C H A P. XXXIII.

IN the Times when the Distinction began betwixt Benefices which oblig'd to Residence, and the other call'd simple Benefices, which oblig'd to none, another Doctrine was set on Foot, That of such Benefices as did not oblige to officiate in Person, it was lawful to hold more than one* : Whence arose the Distinction of Benefices, compatible and incompatible. Those which oblige to Residence, are certainly incompatable with one another, seeing a Man cannot divide himself into two Places ; but

* Vide caput dudum 54. & Garciam de Benef. parte unextra de electione & ibi gloss. | decima, cap. 5 § 2, & 3.

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simple Benefices, seeing they require not personal Service, are compatable and consistent with one another, and with other Benefices too.

At first they proceeded on this Head with much Caution, contenting themselves with saying, that in case a Benefice were not sufficient to maintain the Incumbent, he might have another which was compatible; but they never had the Hardiness to carry it so far as to a third, or even to two Benefices, if the first were sufficient.

The Bishop's Authority never went farther than this, but as for the Pope, it was allow'd he might confer more than two Benefices on the same Person, when the two were not sufficient to maintain him⁽¹⁾. But then this Sufficiency or Competency, was carved out by the Canonists with so liberal a Hand*,

(1) The Author gives this Account of the Original of Plurality of Benefices, *in lib. 2. Counc. of Trent*. Seeing, saith he, the ancient Canons were still in Force, a Clerk could not have two Titles, nor consequently two Benefices. But the Revenues happening to be diminish'd, either by Calamities of War or Inundations, they gave the Benefice to some Clerk who had one already, provided he could officiate them both. Which was practis'd after, not in Favour of the Incumbent, but of the Church, where its own Revenue would not maintain a particular Minister to itself, that it might not want Divine-Service. But under colour that one Benefice afforded not a sufficient Subsistence, and none would undertake it, they found the way of giving several

Benefices to one Man, tho' it were not necessary for the Service of the Churches: And so, by little and little, they took off the Mask, by doing that in Favour of the Incumbent, which at first was done in Consideration of the Church only. And seeing the World was scandaliz'd at this Novelty, the best Colour was given to it, that could be, by adding to the distinction already made of Benefices of Residence and Non-residence, another of Benefices compatible and incompatible. By incompatible with one another, they understood Benefices of Residence, and by Compatible, those of Non-residence; which may be held with one another, and with other Benefices too.

* Glossa ad Can. Clericus, l. Caul. 21. q. 1.

that

that the Necessities of Life were very large; which, say they, as to simple Priests, include whatever is necessary, not only for the Maintenance of their own Persons, but also of their Families, their Relations, three Servants and a Horse; as also for Hospitality and entertaining Strangers (2). Then if the Beneficiary be a Gentleman, or a Man of Learning (a), they allow him over and above this, all that is proper for his Quality. And what they say of a Bishop's Allowance is amazing (3): As for Cardinals, nothing can be surprizing that is said of them, when one considers the Stile of the Court of Rome, *Regibus aequiparantur* (4).

(2) If this were so, there would be at this Day more Priests than Laicks; and Princes would be no more than the Portmanteau's of the Popes. But all the Canonists are not of this Mind. *Vide Gomez de Expect. Num. 107. Flamin. Paris de resign. benef. lib. 5. q. 6. Num. 131. Azor. p. 2. lib. 6. cap. 10. q. 8, & 9. Menoch. de Arbitrar. lib. 2. casu 216. Navar. Miscellan. 62. de Orat. & Gloss. ad cap. 5. extra de peculio Clericorum.*

(a) *Vide caput de multa 28. in fine. extra de Præbendis.*

(3) It is more surprizing, to see the small Regard the Court of Rome hath for the Italian Bishops of the Ecclesiastical State, who not only keep standing before Cardinals, but think it no Dishonour to serve them at the Table: With which the Bishop of five Churches reproacheth the Bishop of Rieti in full Con-

gregation, [*Fra. Paolo, lib. 6. Hist. Conc. of Trent.*] Besides that, their Bishopricks are so loaded with Pensions, that they would think themselves very happy, if the Popes would assign them a sufficient Livelihood and make that the Rule, as the Canonists do to simple Priests.

* *Vide Nicol. de Clemangis de corrupto Ecclesiæ statu, cap. 11. & Pet. de Aliaco de reform. capitis, seu status Papalis, & suæ Rom. Curix & Cardinalium.*

(4) Whence they conclude, saith he, *ibid.* That no Revenue is too great for them, that is not superabounding for Kings themselves. And 'tis for this Reason, that Popes have granted them the Privilege of having *Os apertum ad omnia beneficia, viz.* of being capable of holding all Sorts of Benefices, either Secular or Regular.

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But indeed there is nothing in all this, that exceeds the ordinary Terms of speaking on this Subject, seeing it is the Tenent of every Canonist, that the Pope can grant Dispensations for the holding as many Benefices as he pleaseth : And in Effect, Dispensations were grown to such a Height, that *John XXII.* (5) revok'd them all, restraining the Dispensations to two Benefices only (a). But then his Reserving to himself the Disposol of all the other Benefices, as shall be shewn when we come to speak of Reservations *, gave ground for the Belief, that he made that Order for his own Profit, and not for the Sake of reforming the Abuse : Especially considering withal the Character of this Pope, who had a particular Talent in all the subtil Ways of improving his Revenues. And the Event made it good, for the Church relapsed into the same Distemper of Pluralities, more fatal, and with more Violence than ever ; which we see continued to this Day, in the Practice of Dispensations, with such a Loose to Avarice, as exceeds all Bounds.

All the Canonists and Casuists agree, that Dispensations ought to be granted only for lawful Causes, and that the Pope sins who grants them for any other : But they have not decided, whether he

(5) *James Dossa*, of the Diocels of *Cahors* in *France*, Son of a poor *Cobler*.

(a) Nos omnes & singulas dispensationes super receptione, aut retentione plurium dignitatum, aut beneficiorum, &c. quibus cura animarum sit annexa --- cuicunq; personæ concessas, (Cardinalibus tamen exceptis) duximus taliter moderandas, quod per moderamen nostrum

effrenatum talium beneficiorum multitudinem refrenemus. Statuimus itaq; quod obtinentes pluralitatem hujusmodi beneficiorum --- unum tantum ex beneficiis quibus cura imminet animarum cum beneficio sine cura quod habere maluerint possent licite retinere *Extravagant tit. de præbendis cap. execrabilis.*

* See the Article 37, and the Note 3.

who

who makes use of such Grant, as is made without lawful Cause, stands acquitted from all Guilt *.

Some say, the Dispensation is good before G O D and Men; others, that it serves to avoid the Penalties of the Canon-Laws, but that in Conscience, and before G O D, it is of no Validity: And to this Opinion, the greater Number of the best and most devout People adhere (b). But the other is more agreeable

* Vide Glossam ad cap. propositum 4. extra de concess. præbendæ. verb. supra jus.

(b) D. Bernard Ep. 7. ad Adam Monachum. Nunquid ideo, saith he, aut malum esse desit, aut minora tum est, quia Papa concessit? quis vero malum esse negent, assensum præbere malo? *Idem lib. 3. de Considerat. cap. 4. & ep. 271. ad Theobald. Com. Compania.*

Langius in Chronico Citizensi, anno 1044. & Rebuff. in praxi benef. tit. de dispens. Num. 57. A Bishop giving his Opinion in the Council of Trent, upon Dispen- sations, said, That the Council ought to declare, that there ought to be a lawful Cause of Dispensation, and that who grants it otherwise, sins, and cannot be absolv'd without revoking it: And that he who accepts, and makes use of the Dispensation, so far from being faultless, lives in continual Sin as long as he makes use of it. To which others replied, That in Truth, he who grants it without lawful Cause, sins, but that however, the Dispensation holds good, so that the Con-

science of him that obtains it, is untouch'd, tho' he knows that the Cause is not lawful. *Frâ. Paolò lib. 2. Hist. Conc. Trent.*

A Dominican, one Hadrian Valentine, had the Courage to say, That the Pope being above all human Laws, had full Power to dispense with them, and that even tho' he should grant a Dispensation without Cause, it ought still to be deem'd valid: And that he can also dispense with Divine Laws, provided there were a lawful Cause. He afterwards adds, That tho' Dispensation of a Divine Law, granted without good Cause, were not valid, yet whatever the Dispensation were, every one ought to captivate his Understanding, and believe that there were a lawful Cause.

In the same History, lib. 7. *John de Verdun, a French Benedictine*, is quite of a different Opinion, Human Laws, saith he, are subject to Dispensation, because of the Imperfection of the Legislator, who cannot foresee all the particular Cases which may call for an Exception: But where God is the Legislator, the

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agreeable to the Court of *Rome*, who love not to have the Law given them, or that any Rules should be prescrib'd to the Papal Authority, especially in the Matter of Benefices. For some among them hold, tho' warmly oppos'd by others of the same Profession, That the Pope may grant Dispensations for holding several Benefices with Cure of Souls*. Yet the Court of *Rome* hath not taken much Advantage of this Doctrine, seeing it hath found out other ways of giving several Benefices under one Name, and in such Manner, that they should look like one Benefice. One of these ways is the Union, the other the *Commendam*; both the Product of the Times we have above-mention'd, and of which it is now proper to treat.

the Law is without Fault, because nothing can be hid from his Knowledge.

It is not therefore, that he who dispenseth, can ever disengage him who is oblig'd; nor make him remain oblig'd, who is deny'd a Dispensation if he deserves one. It is a popular Error to believe that Dispensations is a Favour, seeing it is an Act of distributive Justice as much as any: And he sins, who grants it not to those to whom it is due. The Church is not a Servant, nor is the Pope its Master: It is the Pope's Part, who is only Servant of him who has set him over the Christian Family, to give to every one what is due to him.

Quem constituit Dominus supra familiam suam, ut det illis in tempore tritici mensuram, Luce

12. Dispensation is nothing, but a right Interpretation of the Law; and consequently the Pope cannot, by his Dispensations disengage those, who really are oblig'd to observe a Law; but he may very well declare to those, who are not under any Obligation to a Law, that they are not oblig'd to observe it.

Fra. Paolo in the same History, lib. 7.

I recomend this last Instruction as deserving to be deeply engraven in the Hearts of all Christians.

* See *Garcia*, de Benef. parte 11. cap. 5. num. 337.

C H A P. XXXIV.

IT was a Practice of great Antiquity, that when a People by any Calamities, as of War, Plague, or Inundations, were reduced to so small a Number, that they could not maintain a Minister, the Bishop committed the Care of them to the neighbouring Curate *, with the small Revenue that was left: And this was call'd uniting the two Cures. In the same Manner when Cities became depopulated, and fell to such Decay, that they were not able to afford their Bishop an honourable Maintenance, the Metropolitan and his Suffragans assembled in Council, added two or more Cities to one Diocess, and so these Bishopricks were called united. On the contrary, when the People in any Place multiplied so fast, that one Curate was not sufficient for the Charge, the Cure was divided: A Method which continues in use to this Day, and a very commendable one, both for the Service of G O D, and the Convenience of the People (a).

It was afterwards thought expedient to make Unions, in favour of some particular Places of Devotion; and thus divers Benefices became united to Bishopricks, Monasteries, or some poor Hospital. By which Union, the beneficed Person seems to

* Vide Can. univers. caus. 10. q. 33. ex concil. Tolet. cap. 4. an. 693.

(a) Et Canonica tradit auctoritas, & ratio suggerit naturalis, ut cum necessitas exigit, vel utilitas persuadet, ut unus

Episcopatus dividatur in plures & plures jungantur in unum, ne cura pastoralis desit alicui, vel aliquid desit curæ pastoris, Innoc. 3. ep. 52. tom. 2. lib. 10. ad Episcopum Paviensem.

hold two Benefices, when in Reality he holds but one (1).

But in order to give two Benefices to the same Person, which were really incompatible and inconsistent to be held together, human Subtlety had invented the way of uniting the one Benefice to the other, during the Life of the Incumbent; so that by giving the principal Benefice, the united one was included in the Gift, and went along with it for Company. By which means the Law against holding more than one Benefice, is saved in Appearance, but in reality it is a meer Observance of the Words, and a plain Transgression of the Sense: Which the Lawyers call, Evading the Law (2).

This Invention also serv'd to confer Benefices with Cures upon Children, or on illiterate Men, and without any Obligation of taking holy Orders, by uniting the Benefice with Cure, to a simple Benefice for Life; and then by conferring the simple Benefice in Title; and so the Beneficiary became in Possession of the Cure, and the Letter of the Law preserved.

But the valuable Power of uniting Benefices for Life, was reserv'd to none but the Pope alone; nor could the Bishops ever obtain it on any Occasion whatsoever. Some Civilians call this an Union in Name, but in Reality it is a total Dissolution of the

(1) These Unions of Grace or Favour were forbid by the Council of *Lateran*, and abrogated by the Council of *Basil*, under the general Title of Reservations. See the *Pragmatick* *Sanction*, de Electionibus & quia verbo, exceptis: Et Guim. *ibidem*.
 (2) See Garcia de Benef. parte 12. cap. 2. de unione, num. 84.

Law (3) : And for that Reason, hath been prohibited in some Countries with great Marks of Detestation. This Evil reign'd very long in the Court of *Rome*, but is now worn out, and no longer in any Force (4), with many other Artifices and Subtilties (not to call them Cheats) of the same Nature; which are too evident, for Reasons which shall be given, when we come to speak of the Affairs of our own Times.

(3) Thus the Congregation of Cardinals and Bishops spoke to *Paul III.* who had deputed them in 1537. to try to make a Reformation in his Court.

Quid de unionibus beneficiorum ad vitam unius, *say they*, ne scilicet obstet illa beneficio-

rum pluralitas ad obtinenda incompatibilia, nonne est mera fraus legis?

(4) Since the Council of *Trent*, which abolish'd it in the Session 7. chap. 7. of the Reformation.

C H A P. XXXV.

Commendams were also of a very ancient and laudable Institution; for when an elective Benefice became vacant, such as a Bishoprick, Abby, or some Benefice, that was *Jus-patronatus*, for which the Ordinary could not, for some Reason, provide immediately, the Care of it was recommended by the Superior to some Man of Merit *, who should only take upon him the Direction of it, till the Vacancy should be fill'd up, but who could enjoy none of the Profits: And therefore some excellent Person was generally pitch'd upon, to whom the Undertaking

* Vide Greg. III. lib. 1. cap. 76. lib. 2. Ep. 13, & 35.

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king was an Expence, and had nothing to recommend it, but the Trouble which he was to undergo for the Service of the Church: But he would have been very improperly said to hold this Benefice in *Commendam*, and consequently, in Reality, had not two Benefices (a).

However, not to wrangle about Words, it grew to be a Maxim among the Canonists, That a Clerk might hold two Benefices, one Titular, the other in *Commendam* *. At first, the *Commendam* was to continue only till other Provisions were made; Afterwards it grew to be given for a certain determinate Time, which sometimes prov'd a little with the longest. This occasion'd the Popes prohibiting the Bishops to extend it beyond fix Months (b), tho' he made it no Rule for himself. On the Contrary, the *Commendams* contracted too much of this Habit, not altogether commendable from the *Roman* Chancellory; for when the Pope would confer a Benefice on any one who happen'd to be incapacitated, either for want of Age, or because the Benefice was regular, and the Person secular, the Pope gave it him in *Commendam*, until he was in a Capacity to take the Title.

(a) Quia Commendatio, *says the Canonists*, non facit Prælatum, sed Procuratorem, & qui commendavit, potest revocare, quando vult. Nam commendare nil aliud est quam deponere. *Gloss. can. ad unum 4. caus. 21. q. 1.*

* Ibidem & cap. Dudum, extra de election.

(b) Nemo deinceps, *says Gregory X.* paræcialem ecclesiā alicui non constituto in ætate

legitima & sacerdotio commendare præsumat. Nestali etiam nisi unam, & evidenti necessitate, vel utilitate ipsius Ecclesiæ suadente. Hujusmodi autem commendam ut præmittitur, rite factam declaramus ultra semestris temporis spatium non durare: Statuentes quicquid secus de commendis Ecclesiarum paræcialium actum fuerit, esse irritum ipso jure. *Cap. nemo 15. de elect. in sexto an. 1273.*

At last, about the Year 1350, the Popes throwing off all sort of Considerations, and having got the other Bishops ty'd down to the Term of six Months, gave a Loose at once to the asserting their own Power, and conferred the *Commendam* for Life : And if this happen to one who hath another incompatible Benefice in Title before, the Letter of the Law is preserved strictly and without Reproach, which forbids two Benefices to be given, unless the one be in Title, the other in *Commendam* : But the Sense or Spirit of the Law is perverted ; seeing the Commendatory for Life, as to the Profits, is, to all Intents, the same with the Titular (1). In the same Manner,

(1) When by reason of any Calamity of War or Plague, says the Author in the same Place, an immediate Election could not be made, the Superior recommended the vacant Church to some Person of known Vertue and Ability, who besides the particular Care of his own Church, govern'd in the Vacancy of this, till it was fill'd : And this Commendatory was only the Depository of the Revenues.

Afterwards the Commendatories, under divers Pretences of Necessity and Decency, made use of the Fruits ; and that they might enjoy them longer, they put off the Nomination or Election of the Titulars by several Artifices, which occasion'd the fixing the Term of the *Commendam* to six Months. But the Popes making use of their plenary Power, prolong'd the Term, and even granted the

Commendams for Life, with all the Profits.

This Invention, which in its Original was pious, degenerated into so much Abuse, as to be made use of in corrupt times to countenance Pluralities, of which one sort, they said, was possess'd in Title, the other in *Commendam* ; by which, the Words of the Law were observed, but the Sense was defeated ; seeing the Commendatory for Life differ'd in nothing from the Titular, [*Witness the Form of Bulls of Commendam, Curam Monasterii ac regimen & administrationem tibi in spiritualibus & temporalibus plenarie committentes.*] And in lib. 3. of the same History, he speaks thus, When the Western Empire was ravaged by the barbarous Nations, it happened often that the Churches lost their Pastors, and that those to whom it belong'd to provide others,

others, were hinder'd by the Inroads and continual Violences of this accursed People.

For this Reason, the chief Bishops of the Province recommended the Orphan Church to some vertuous Churchman, till they were at Liberty to chuse a Pastor canonically. The Bishops and neighbouring Curates did the same, when some Country Parish fell vacant. And the Person pitch'd on for Commendatory being always a Man of Consequence, who was much concern'd, to answer the Expectation had of him, the Church found great Advantage by it. But as Corruption commonly creeps into the best things, some Commendatories began to divide their Care betwixt the Service of the Church recommended to them, and their particular Interest, and the Bishops to recommend Churches, when there was no Occasion. So this Abuse still encreasing, a Law was necessary to limit the Time of the *Commendum* to fix Months, and to forbid the Commendatory to take any of the Profits. But the Popes, setting themselves above all Law, prolong'd the Term of the *Commendams*, and granted a Part of the Profits to the Administrators; and afterwards carried things so high, as to grant *Commendams* for Life, with all the Revenues. After which they changed also the Stile of their bulls, saying, "We recommend this Church to thee, that thou mayest

"support thy Condition with
"more Ease and Decency."

[*ut statum tuum juxta gradum tuæ nobilitatis decentius tenere valeas.*] Whereas, the Title before was, "To the End, that during this Interval, this Church may be served and governed." Farther, they order'd, that the *Commendams* should be left wholly to their Disposol, without allowing him who had the Right of Collation to use his Right, upon the Death of the Commendatory. Now, as the Commendatories were made by the Popes, and depended only on him, People chose rather to sollicite at Rome for Benefices in *Commendam*, than for Benefices in Title; seeing by this Means, they withdrew themselves from the Bishop's Authority, who thus lost it over most of the Churches of their Diocesses. Whence it came to pass, that the Commendatories being no longer accountable to any Body, retrench'd to their own great Advantage all the necessary Expences, and let the Buildings go to Ruin; minding nothing but how to support their Condition according to the Tenure of their Bulls.

I thought it proper here to insert these two Pieces of History, extracted out of the History of the Council of Trent, by *Frà. Paolò*, because they give a perfect Account of every Thing that is requir'd to be known, in the Business of *Commendams*.

Manner,

Manner, as a Benefice given in *Commendam*, to one who hath not the Qualifications requir'd by the Canons; is not offending against the Words of the Canons; but the Benefice is given in Effect, tho' not in Words. The *Commendams* of Bishopricks and other Benefices, are almost disus'd indeed in *Italy*, only there still remain some Abbies in *Commendam*, upon Occasions, which shall be mention'd when we come to our own Times.

By the Methods we have describ'd, the Popes drew to themselves a great Part of the Collation of Benefices, in all the Christian Kingdoms of the West. But in the Eastern Churches they were not allow'd to dispose one Benefice, not only towards the latter Times of that Empire, when the *Greeks* separated intirely from the Church of *Rome*, but even when they were united; except in the Parts of *Syria* and *Greece*, when these Countries were under the Dominion of the *French* and *Venetians*. And tho' these Bulls, which dispos'd of Benefices in some one of the Methods above-mention'd, were for the most obey'd yet they met with so many Complaints and Murmurings, as made it sometimes be disputed, whether the Pope had any Right at all all to such Power.

In *Italy* no Opposition was made to it, except by some conscientious Men, who had only the Service of GOD in View: The *Italians*, of whom the *Roman* Courtiers were compos'd, finding their Advantage in this great Authority of the Pope, which help'd them to Revenues beyond the Mountains.

In *Spain*, the Prudence of that Nation eluded all the Artifices of the Court of *Rome*, by Negotiations.

In *England*, where the Benefices are very rich and numerous, the *Roman* Courtiers made such mighty

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Acquisitions (2), that in the Year 1232, the Clergy, and the Military Men of the Kingdom, form'd a Confederacy or Association*, and pillaged all the Goods and Revenues of the beneficed *Roman* Clergy throughout the Island (c). The Pope commanded the King, under Pain of Excommunication, to chastise them with his Temporal Arms, and the Bishops to excommunicate them: But the Confederates were too strong, either for the Kings to touch them, or the Bishops to excommunicate them. Yet this Interval of Quiet lasted but for a few Years, for Pope *Innocent IV.* a *Genoese* (3), taking Courage, sent one *Martin*, a Kinsman of his, to renew the Pretensions of the Court (d): The
English

(2) *Matth. Paris* saith, That *Gregory IX.* commanded the Archbishop of *Canterbury*, and the Bishops of *Lincoln* and *Sarisbury*, to provide 300 *Romans* with the first Benefices that should be vacant in their Churches, suspending all their Collations, until these 300 were provided for. *Anno.* 1240.

* *Matth. Paris* in *Hen. III.* *Anno.* 1231.

(c) Eodem anno distracta sunt horrea Romanorum per totam fere Angliam a viris quibusdam armatis, & adhuc ignotis, bonis conditionibus & ad commodum multorum, & opus licet temerarium in solennitate paschali, inchoantes sine contradictione & libere, quod quandoq; minimos inter pauperes seminantes eos colligere hortabantur. *Idem* in *Henrico.* anno 1232.

(3) Of the Family of *Fiaschi* of the Counts of *Lavagna*,

electd in 1243. call'd the Father of the Canonists.

(d) *Circum idem tempus misit Dominus novus Papa quendam novum pecuniæ extorem magistrum videlicet Martinum, autenticum papale deferentem, & habentem potestatem excommunicandi, suspendendi, & multipliciter voluntati suæ resistentes puniendi.* *Idem. Matth. Paris.*

It is observable, that the Popes pretended to so great an Authority over *England*, by Virtue of an ancient Right, founded on the Donation of *Constantin*, by which, all the Islands were given, as was pretended, to the Church of *Rome*.

Ad preces meas illustri Regi Anglorum *Henrico II.* concessit & dedit (*Hadrianus*) *Hiberniam* jure hæreditario possidendam. Nam omnes Insulæ de jure antiquo

English complain'd to the King, that the *Italians* had got Possession of all the Benefices; and the King drove *Martin* out of the Kingdom, and making a Computation of all the Revenues which the Popes drew out of *England*, found they were equal to his own Revenue, which amounted to 60000 Marks (4). And upon his laying these Grievances before the Pope, in the Council of *Lyons*, who presided there in Person, he was answer'd, That the Council was not assembl'd for that Affair (5), nor was the Season proper to remedy it.

While this Council was held in the City of *Lyons*, the Pope had a longing Desire to bestow some Prebendaries of that Church on some of his Relations, which made so great a Disturbance in the City, that on Notice that they were in great Danger of

tiquo ex donatione Constantini, qui eam fundavit, & dotavit, dicuntur ad Rom. Ecclesiam pertinere. *Joannes Sarisburiensis lib. 4. Metalogici, cap. 42.*

(4) The same Historian saith, that the Revenue of the *Italian* Beneficiaries, establish'd in *England*, amounted to more than 70 thousand Marks of Silver; and that *Innocent IV.* had more impoverish'd the Church of God, than all the Popes together had done, since *St. Peter*.

Episcopus Robertus Lincolnensis fecit a suis Clericis diligenter computari, alienorum proventus in Anglia, & inventum est, & veraciter compertum est, quod Innocentius IV. pus Ecclesiam universalem de-

peraverat quam omnes Prædecessores a tempore Papatus primitivi. Reditusq; Clericorum per ipsum in Anglia alienorum, quos Ecclesia Romane ditaverat, ad plusquam septuaginta millia Marcarum ascendit, Reditus Regis non ad ejus partem tertiam computatur. *In vita Henrici III. ad ann. 1252.*

In another Place, *ad an. 1255.* he calls *Innocent IV.* *Lisipator Ecclesie Dei, & venditor Ecclesiarum.*

(5) He had call'd it, under Pretence of sending Succours to the Holy-Land, but his true Motive was, to excommunicate the Emperor *Fredric.* *Raimald an. 1245. § 1. & Matth. Paris anno 1245.*

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being thrown into the *Rhone* (e), he ſent them privately out of Town.

Nevertheless the Court ceaſed not to make new Attempts. In the Year 1253, the ſame Pope commanded *Robert*, Biſhop of *Lincoln*, a Perſon eminent in thoſe Times, for Learning and Strictneſs of Life, to conſer a Benefice upon a *Genoeſe*, againſt the Canons : Which appearing both inconvenient and unjuſt, this Prelate answer'd, That he receiv'd the Apoſtolick Commands with the Reſpect due to them, as they were conformable to the Doctrine of the Apoſtles, but that the *Non-obſtantibus* made up of Uncertainties, Inconſiſtencies, and proceeding from want of Faith, came like a Torrent to overthrow the Peace of *Chriſtendom* : That it was a grievous Sin to take away the Paſture from the Sheep : And that the Apoſtolick See had all Power to edify but not to deſtroy (f). The Pope was enraged at this

(e) Eodem tempore cum vellent Dominus Papa quibusdam Præbendis Lugdunenſis Eccleſiæ vacantibus, quosdam alienegenas conſanguineos vel affines ſuas, inconſulto Capitulo intrudere, reſtiterunt ei in facie Canonici Lugdunenſes, comminantes, & cum juramento obteſtantes, quod ſi tales apud Lugdunum apparerent, non poſſet eos, vel Archiepiſcopus vel Canonici, protegere, quin in Rhodanum mergeretur, *Mat. Paris, anno 1245.*

Emeric Gueri, Archbiſhop of *Iyons*, chuſe rather to quit his Archbiſhoprick, than to ſee his Church expoſed to the Plunder of the Pope. *Gallia Chriſtiana pag. 324. Mat. Weſtminſt.*

(f) Mandatis Apoſtolicis, ſaith he, in his Answer to the Pope, affectione filioli devote & reverenter obedio, his quoque quæ mandatis Apoſtolicis adverſantur, paternum zelans honorem, adverſor & obſto; ad utrumque enim teneor ex divino mandato ---- Non eſt igitur literæ, tenor Apoſtolicæ ſanctitati conſonus, ſed abſonus plurimum & diſcors. Primo, quia de illius literæ, & ei conſimilium ſuper accumulato non obſtante ſcatet cataclyſmus inconstantia audaciæ & procacitatis, inverecondiæ, mentiendi, fallendi, diſſidenter alicui credendi, & ex his conſequentium vitiatorum quorum non eſt numerus, Chriſtianæ religionis puritatem,

this Answer, and Cardinal *Agidius*, a *Spaniard*, a prudent Man, endeavour'd to appease him, representing, That proceeding to Extremities, in a Cause so odious in the World, and against a Prelate so universally esteem'd, could have no good Effect (*b*).

But

tatem, & socialis conversationis hominum tranquillitatem commovens, & perturbans. Prætorum ---- non est, nec esse potest, alterum genus peccati tam contrarium Apostolorum doctrinæ, & evangelicæ & ipsi Domino Jesu Christo tam detestabile, & abominabile, quam animas curæ pastoralis officii & ministerii defraudatione mortificate & perdere. *And after some other Remonstrances of the same Strain, he finisheth his Letter thus*: Apostolicæ sedis sanctitas non potest nisi quæ in ædificationem sunt, & non destructionem: Hæc enim est potestatis plenitudo omnia posse in ædificationem: Hæc autem quas vocant, provisiones non sunt in ædificationem, sed in manifestissimam destructionem. Non igitur eas potest beata sedes Apostolica acceptare, quia caro & sanguis (*because Innocent gave all the Benefices to his Kindred and fill'd the English Church with Genoese*) quæ regnum Dei non possidebunt, eas revelavit, *Mat. Paris*, in the Life of *Hen. III.* 1251.

(*g*) Hæc cum ad Papæ audentiam pervenissent, non se capiens præ ira superbo animo ait: Quis est iste senex delirus, lurdus, & abiurdus, qui facta

audax, immo & tenærius judicat [which of the two doated, the Pope, who broke the Canons, or *Lincoln*, who defended them? Which of them was deaf, *Lincoln*, who hearken'd so well to the Voice of the LORD, or *Innocent*, who was deaf to an Apostolical Prelate, who told him his Duty?] per Petrum & Paulum, [he swore by St. Peter and Paul against the Bishop of *Lincoln*, who gave him the same Rebuke then, which St. Paul had given to St. Peter, *quia reprehensibilis erat. & non rectè ambulabat ad veritatem Evangelii*, (Galat. 2.) instead of imitating St. Peter, who profited by this Correction] nisi moveret nos innata ingenuitas, ipsum in tantam confusionem præcipitarem, ut toti mundo fabula foret & exemp'um. *Ibid.*

(*b*) Non expediret, Domine, ut aliquid durum contra ipsum Episcopum statueremus, ut enim vera fateamur, vera sunt quæ dicit, non possumus eum condemnare. Catholicus est, imo & sanctissimus, nobis religiosior, nobis sanctior, excellentior, & excellentioris vitæ, ita ut non credatur, inter omnes Prælatos majorem, imo nec parem habere. Novit hoc Gallicana & Anglicana Cleri

But whilst the Pope was meditating which way to be reveng'd, *Robert* died, continuing to speak in the same Strain to the last Moments of his Life (1): And as he pass'd for a Saint, the Report went that he wrought Miracles. The Pope, when he heard of his Death, order'd a Process against him, to take him out of his Grave, and sent it to the King to

universitas, nostra non prævaleret contradictio. Hujusmodi epistolæ veritas, quæ jam forte multis innotuit, multos contra nos poterit commovere. Hæc dixerunt Dominus Agidius Hispanus Cardinalis, & alii, consilium dantes Domino Papæ ut omnino hæc conniventibus oculis sub dissimulatione transire permitteret, ne super hoc tumultus excitaretur. *Ibid.*

This Cardinal, by the Testimony of the said Mat. Pars, was a great Man. Pare carens, saith he, columna in curia Romana veritatis, & Justitiæ, & munerum aspernator, quæ rigorem æquitatis flectere contueverunt. He died 1255. aged near 100 Years.

(1) Privilegia sanctorum Pontificum Rom. Prædecessorum suorum Papa impudenter annullare per hoc repagulum non-obstante non erubescit: Quod non fit sine eorum prejudicio & injuria manifesta; sic enim reprobatur, & diruit, quod tanti, & tot sancti ædificaverunt --- Nonne dicit Papa de suis plerisque prædecessoribus, ille vel ille pie recordationis prædecessor noster, & sæpe adherentes sancti prædecessoris nostri

vestigiiis, &c. Quare ergo, quæ jecerunt, diruunt fundamenta, qui sequuntur? Nonne plures, divina gratia salvati, majores sunt uno solo adhuc periclitante? --- Unde ergo hæc injuriosa temeritas, privilegia antiquorum sanctorum multorum in irritum revocare? *That is to say,* The Pope is not asham'd to cast and annul, with a non-obstante, the Concessions and Acts of their holy Predecessors, not considering the Injury he doth to their Memories, in overturning all their spiritual Fabrick. When the Pope speaks of any of his Predecessors, doth he not say, Our Predecessor N--- of pious Memory? And very oft he saith, Being willing to follow the Footsteps of our holy Predecessor: Will he then ruin the Foundations which others have laid? Many Popes, who, by God's Grace, have happily arriv'd at the Harbour, are not they of greater Weight than one alone, who is in Danger of making Shipwreck? How comes it then, that *Innocent* is so bent upon revoking the Privileges, which so many holy Fathers have granted? *Matth. Paris*, in the same Life.

execute.

execute. But the Night following, *Robert* appear'd to the Pope, either in a Vision or Dream, clad in his Pontifical Robes, and reproaching him for persecuting his Memory, gave him a Blow on his Side with his Cross (k), which awaken'd the Pope with an excessive Pain, which continued with him till his Death (l).

In the Year 1258, *Alexander IV.* *, his Suecessor, on the like Occasion excommunicated the Archbishop of *York*, who persevering and justifying him-

(k) Hoc anno 1254. Dominus Papa dum iratus supra modum vellet ossa Episcopi Lincolnienfis extra Ecclesiam projicere ---- jussit talem Epistolam scribi Domino Regi Angliæ transmittendam: Sciens quod ipse Rex libenter desæviret in ipsum, [For, as our Historian saith, 6 or 7 Pages before, Robert was Domini Papæ & Regis redargutor manifestus] sed nocte sequenti apparuit ei idem Episcopus Lincolnienfis pontificalibus redimitus, ac voce terribili ipsum Papam in lecto sine quiete quiescentem aggreditur & affatur pungens ipsum in latere, ictu impetuoso, cuspidem baculi sui pastoralis: Et dixit ei, Sinibalde, Papa miserrime, proposuistine ossa mea extra Ecclesiam projicere? Unde hæc tibi temeritas? --- Nullam potestatem in me habere te Dominus a modo patietur: Scripsi tibi in spiritu humilitatis, & dilectionis, ut errores tuos crebros corrigeres: Sed tu monita salubria falcinante corde contempsisti. Væ, qui spernis, nam & tu

contemneris, & sic Recedens Robertus ipsum Papam ---- dereliquit seminecem. *Ibid.* anno, 1254.

(l) Papa in Latere quasi pleurisi infirmatus, vel lancea sauciatus: Nec potuit ei Cardinalis Albi Physica Suffragari; non enim pepercit Robertus Lincolnienfis Sinibaldo Januensi, (which was the Name and Country of Innocent) & qui vivum noluerat adire corripientem, senserat mortuum impingentem. Nec unquam postea ipse Papa unum bonum diem vel prosperum continuavit usq; ad noctem vel noctem usq; ad diem sed in somnem & molestam, *Ibid.*

(m) Towards the End of the Year 1254. *Mat. Paris* reports, That *Innocent* being at the Point of Death, and seeing his Friends weep, said to them, *Quid plangitis miseri? Nonne vos omnes divites relinquo? quid amplius exigitis.*

* He was of the House of *Conti*, the same with *Innocent III.* and *Gregory IX.*

self, stood the Persecution with great Fortitude (n), and drawing near his End, wrote a Letter of great Prudence to the Pope, exhorting him to imitate his holy Predecessors, and to suppress these Innovations, so injurious to the Church, and so dangerous to the Safety of his own Soul (o): And then died, in the Reputation of a Saint and Martyr.

During the Confusions of these Times, there was a Regulation found necessary to be made in *France*, which I shall here recount, introducing it with this

(n) Anno 1257. aggravavit manum suam Dom. Papa in Archiepiscopum Eboracens. iussitq; eum ignominiose nimis in tota Anglia excommunicari. Ipse tamen Archiepiscopus exemplo B. Thomæ Martyris nec non B. Rob. Episcopi Lincolnensis fidelitate eruditus de solatio cælitus mittendo minime desperavit, omnem papalem tyrannidem patienter sustinendo. *And 8 Pages after*, Renuit genua flectere Baal, & indignis Barbaris opima beneficia Ecclesie suæ, quasi Margaritas porcis, imo spurcis distribuere. *Ibid. And 4 or 5 Pages after*, Nec cenfeo prætereundum quod B. Edmundus Lector in Theologia Oxoniensis (*And afterwards Archbishop of Canterbury*) ei dicere consuevit. Oh Sewale (*which was the Name of this Archbishop of York*) Martyr ab hoc seculo transmigrabis, ferro, vel saltem gravibus, & insuperabilibus in mundo tribulationibus impetitus & trucidatus, *Ibid. ad an. 1257, 1258.*

(o) In amaritudine animæ scripsit Papæ exemplo Roberti Lincolnienſis Episcopi provoca-

tus, dolens inconsolabiliter, quod tam multiformiter ipsum fatigarat, eo quod inexpertos, & linguæ Anglicanæ ignaros renuit acceptare, nunc suspendendo, nunc ab Ecclesia eliminando, nunc crucem adferendo, &c. (*the Pope had forbid his first Almoner to carry the Cross before him, as was the Custom*) Conquestus est insuper graviter, quod impetus quorundam Clericorum autoritate papali proterventium ægre sustinuerat, sed patienter, ut probra Patris, non ut Cham revelando derideret, sed ut Sem absconderet & velaret. Humiliter ergo in scripto suo & instanter petiit, ut consuetas tyrannides temperaret, humilitatem sanctorum Prædecessorum suorum sequendo. Dixit Dominus Petro, palce oves meas, non tonde, non excoria, non eviscera, vel devorando consume: *That is, Feed my Sheep, and not sheer them, not tear out their Bowels nor devour them.*

As some Bishops have done, of whom nothing is to be obtained, but for ready Money.

Obſer-

Observation, That in Spight of all the Resistance and Defence made by the Princes and Bishops against the Attacks of the Church of *Rome*, She has never lost Courage in the sharpest Conflicts, or betray'd the least Thought of desisting from her Pretensions.

On the Contrary, pursuant to these, in the Year 1266, *Clement IV.* form'd the Project, which would have put him or his Successors into the absolute Possession of all the Collations of Benefices throughout the Christian World; and withal have freed him from the Servitude of inventing incessantly new Shifts and Finesses, to draw the Collations to *Rome*.

This Pope, therefore, begun with a Bull, which concluded no farther, than what concern'd the Reservation of Benefices *vacantes in Curia*; the Collation of which, he saith, is reserv'd to the Pope, by ancient Custom; which, consequently, he approves, and that it is his Pleasure it should be observ'd: But tho' he concludes no more than this, he had supply'd it with a Preface of the strongest Suppositions, in these Terms: "Altho' the intire Disposition of all Benefices belong so justly to the Pope, that he might not only confer them when vacant, but also grant a Right of acquiring, or of Prevention, before they are vacant: Nevertheless, ancient Custom hath more particularly reserv'd those *vacantes in Curia*: Therefore We approve this Custom (p)."

If

(p) Licet Ecclesiarum, personatum, dignitatum aliorumq; beneficiorum Ecclesiasticorum plenaria dispositio ad Romanum noscatur Pontificem pertinere ita quod non solum ipsa cum vacant, potest de jure conferre verum etiam jus in ipsis tribuere vacaturis: collationem tamen Ecclesiarum, dignitatum, & beneficiorum apud sedem Apostolicam vacantium.

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If the Decree had concluded suitably to his Inclinations, of declaring that the Disposition of all Benefices belong'd to him, an universal Outcry must have follow'd, and he have drawn all Orders of Men, Ecclesiasticks as well as Princes, and other Lay Patrons upon him; all would have been alarm'd, and have stood to their Arms, with Manifestos and Publications of their Reasons, too loud to be born: Whereas a Proposition, stated upon a Supposition, without seeming to make any Conclusion, pass'd the more easily upon the Generality of Men, who were not sensible how much it imported, and in Effect it implied.

However, two Years after, in the Year 1268, St. Lewis, King of France, without having any Regard to this Bull of Clement IV. seeing the Regulations made by the Queen Regent his Mother, during his Minority, and Absence in the Holy-Land, were not of Efficacy to remedy the Abuses crept in by the Dispensations of Benefices, made his famous *Pragmatick* *; wherein he commands, that the Cathedrals

cantium, specialius ceteris antiqua consuetudo Romanis Pontificibus reservavit.

Nos itaq; laudabilem reputantes hujusmodi consuetudinem, & eam autoritate Apostolica approbantes, ac nihilominus volentes ipsam inviolabiliter observari, eadem autoritate statuimus, ut beneficia quæ apud sedem ipsam deinceps vacare contigerit, aliquis præter Romanum Pontificem conferre alicui, seu aliquibus non præsumat. *Sexti Decret. lib. 3. tit. de Præbendis, cap. 2.*

* It is much doubted, if this *Pragmatick* were made by St. Lewis or no, the Writers of that Time making no Mention of it. Besides that, it no where appears, that the Pope who reign'd then, had any Difference with this King, which had been unavoidable, if this *Pragmatick* had been his.

The Cardinal de Bourdeille, who refuted it in the Time of Lewis XI. in a small Treatise, entitled, *Defensum Concordatarum inter sedem Apostolicam, & Regem Franciæ Ludov. II.* seems

Cathedrals and Monasteries should enjoy their Elects free and uncontroul'd, that all the other Benefices should be dispos'd as the Law directed; and that no Impositions of the Court of *Rome* should be levied upon the Benefices, without the King's Consent, and that of the *Gallican Church* (q).

But the Expedition of this pious Prince into *Africk* against the *Moors*, and his Death, which happen'd in the Year 1270. the Interest which the

seems to say, that it was not made by *St. Lewis* in these Terms:

Quod autem eidem ascribitur fecisse Pragmaticam per quam quidem justificare nituntur Pragmaticam per serenissimum Principem Carolum Regem [VII.] domini nostri Ludovici genitorem editam, & per eundem Dominum nostrum Ludovicum, catholice nuper abrogatam, nihil proderit eis, neque prodesse potest, si attendantur singula verba ejusdem sancti sub tenore hujus ascriptæ sibi Pragmaticæ contenta, quæ talis ab aliquibus asseritur. Ludovicus Dei gratia Francorum Rex ad perpetuam rei memoriam, &c.

Our Kings having never used this Form, which is sacred only to the Popes Bulls.

(q) Statuimus & ordinamus primo ut Ecclesiarum regni nostri Prælati, Patroni, & beneficiorum collatores ordinarii jus suum plenarie habeant, & unicuique sua jurisdictio servetur --- Item promotiones, collationes, provisiones, & dispositiones Prælaturarum, dignitatum, & aliorum quorum cunq; benefi-

ciorum, & officiorum Ecclesiasticorum Regni nostri, secundum dispositionem, ordinationem & determinationem juris communis, sacrorum conciliorum Ecclesiæ Dei, & institutorum antiquorum sanctorum Patrum, fieri, volumus, & ordinamus.

Item exactiones & onera gravissima pecuniarum per curiam Romanam Ecclesiæ regni nostri imposita, vel impositas, quibus miserabiliter regnum nostrum depauperatum extitit: Sive etiam imponendas, vel imponenda, levare aut colligi nullatenus volumus, nisi duntaxat pro rationabili, pia & urgentissima causa vel inevitabili necessitate, & de Spontaneo, & expresso consensu nostro & ipsius Ecclesiæ regni nostri.

Nicholas Giles, in the Life of *St. Lewis*, and the Compiler of the Proofs of the Liberties of the *Gallican Church*, assures us, that this Act is found in the Register of the Parliamant. See the Preface of Mr. *Pinson* upon this *Pragmatick*, pag. 30. num. 61. and the following ones.

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House of *Anjou* had in preserving the Pope's Favour, to establish the Possession of the Kingdom of *Naples*, and to recover that of *Sicily*; together with the Permission the Pope had granted the King, to gather Tythes in his Dominions, under the Pretext of carrying on the War in the Holy-Land, were all powerful Concurrents to facilitate the Authority the Pope had lost. And Pope *Boniface VIII.* made it ample Reparation, who in the Year 1298. inserted the Constitution of *Clement* in the Decretals, only with some Ammendment, in making that now the principal Sentence, which was before mention'd only as it were occasionally, and by way of *Hypothesis*. And to give more Force to this Bull by the Uncertainty, he sent it out under the Name of *Clement* only, without expressing whether it were the Fourth or Third *Clement*: And that Doubt we find continu'd to this Day, in the different Copies extant; in some of which he is call'd the Third, and in others the Fourth*.

Then it was that this Proposition first began to be admitted for Truth, That the absolute Disposition of all Benefices belong to the Pope; which they pretended to understand in a Sense not altogether absurd; which is, That the Pope hath a plenary Power, but under the Regulations of Laws and Reason (r).

But *Clement V.* explain'd himself in a Manner so clear, as to leave no Room for any favourable Interpretations, declaring, That the Pope hath not only full Power of disposing all Benefices, but also

* In the Edition of *Lions*, the Subscription of the Title *de Præbendis*, is *Clemens III.* alias IV.

(r) Quod Papa omnia potest, præmissa clavi discretionis ante clavem potestatis. cap. *quanti*, de *jurejurando*.

an intire Liberty in the Manner of disposing them(*f*). By which Liberty the Canonists understand, That he is exempted from Obedience either to Laws or Reason itself; and that he hath a Privilege of disposing Benefices in what Manner soever, even against Reason, the Interest of any particular Church, or of any Lay Patron whatsoever.

This Doctrine is asserted on all Occasions in the Bulls, and there is no Canonist, who holds it not even as an Article of his Faith, That in the Collation of all Benefices whatsoever, the Pope can concur with the ordinary Collator, and even prevent him; and may grant the Power of concurring with the Collator, and even of conferring Benefices by Prevention, to whomsoever, and when he pleaseth: Which is a Power since granted by the Popes to their Legates, by a general Constitution.

In all the Consideration of this whole Matter of Benefices, nothing is more surprizing, than that which hath been all along maintain'd by the Canonists to this Day, without any Regard to a Truth so notorious, either out of Animosity, or because they think it is a Wrong to their Profession, to pretend to know any thing that is not drawn out of the Decretals, That heretofore the Pope conferr'd all Bishopricks and other Benefices, and that since, he hath granted away, out of meer Grace, the Election to the Chapters, and the Collation to the Bishops: Tho' the Light at Noon-day is not clearer, than that the Election of Ecclesiastical Ministers was first in the People; that afterwards it came into the Princes Hands, when they had receiv'd the Chri-

(*f*) *Salva in omnibus Rom. Pontificis potestate, ad quam Ecclesiarum, personatum, dignitatum aliorumq; beneficiorum ecclesiasticorum plena, & libera dispositio, ex tunc potestatis plenitudine noscitur pertinere. Clementin, lib. 2. tit. 5. cap. 1. itan*

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stian Faith, and had taken the Affairs of the Church into their Care: And lastly, that the Elections rested in the Clergy only, after the Seculars had been excluded by the Artifices of *Gregory VI.* and his Successors: Every Diocese still retaining its own Right of electing and, of collating its own Benefices; which the Popes have, by Degrees, insensibly assum'd to themselves, by such Methods as have been already shew'd, and such as will appear in the following Discourse.

In the mean time, there is no Doubt to be made, but that this Assertion of the Canonists will one Day come to be rank'd among the Articles of our Faith, in order to introduce into the Church a Doctrine, so diametrically opposite to that which was preach'd in those Times. For *Anselm* Bishop of *Lucca*, who in the Year 1080, wrote three Books against *Gilbert* the Antepope *, in Favour of *Gregory VII.* which are yet extant, proves throughout the second of those Books, that by the Authority of the Popes, the holy Fathers, the General Councils, and by the constant Usage observed from the Times of the Apostles, down to the Times wherein he wrote, That the Election of the Bishops, which he calls *Pontifices* †, belong'd to the Clergy, and People of the particular Diocese: And that the Emperors *Constantine*, *Constans*, *Valentinian*, *Theodosius*, *Honorius*, *Charlemaign*, *Lewis the Debonair*, with divers others excelling in Piety and Faith, have never violated this Usage, since the Times of the Apostles: And citing withal, a Constitution of the

* Or *Wibert* called *Clement III.* the plural, which, he saith, is formerly Archb. of *Ravenna*, as improper and impious applied here, as to the Name of of whom is spoken in the Notes God. See in the End of the 18th of the 23d Article.

† Not to call them *Papæ* in Article.

Capitular of *Charles* and *Lewis*, in which it is declar'd, That Bishops shall be chosen by the Clergy and People of the Diocess, according to the Canons (t), he saith, That this is a Constitution intirely conformable to that of the holy Fathers; and that the Holy Spirit spoke no less by the Mouths of these Emperors, than if it had been pronounced by the Council of *Nice*, or any other general Synod.

By which it is evident, That in order to draw the Right of Election out of the Hands of the Princes, they have held for Tradition the direct contrary to that which they would have us this Day believe, and which the Canonists teach: So that necessarily either the Canonists must err, or those Authorities quoted by the Bishop of *Lucca*. And if the electing their own Bishops were a Liberty which JESUS CHRIST had bequeath'd to every Church and Diocess, consonant to the Doctrine of the Fathers and Councils, they are not so much in the Wrong who say, That the Court of *Rome* hath put all the Churches in Chains and Bondage, under the Colour of defending their Liberties*.

(t) *Sacrorum Canonum non ignari, ut in Dei nomine sancta Ecclesia suo liberius potiretur honore, ad sensum ordini Ecclesiastico præbuimus, ut scilicet Episcopi per electionem Cleri & populi, secund. statuta Canonum de propria Dioecesi, remota personarum & munerum acceptione ob vitæ meritum, & sapientiæ donum, eligantur, ut exemplo & verbo sibi subjectis, usq; quaq; prodesse valeant. Capitular, lib. 1. cap. 78. See the page 2. of Article 15.*

* See Article 7.

C H A P. XXXVI.

HAVING set forth the various Methods whereby the Church has acquir'd her Riches, our Subject requires, that we should now be as particular in the Methods taken to preserve them. In order to which, in direct Opposition to all the Practice of the Primitive Church, all sort of Alienations are forbid. For tho' the Churches, after they were made capable by the Laws to acquire Estates, retain'd both these which were given in Present or bequeath'd, the Bishop had still the Liberty, not only to make use of the Revenues, but even to sell the very Estates for the Maintenance of the Ministers of the Altar, and Relief of the Poor *; and to bestow in Charities, according to the Exigencies of the Times: And this Power of Dispensation extended itself not only to the growing Rents, as in these Days, but to the Estates themselves, and every Branch of Revenue. Which at first was administer'd with great Fairness and Integrity, and without any inconvenient Consequences, and continued to be so while the Churches were poor, and the Bishops had but a little to manage, and were of small Authority, which afforded them no Opportunities of great Transgressions. But when the Churches grew rich and powerful, a Fulness of Fortune, and the Reputation and Interest waiting on those Circumstances, brought the Bishops into the Temptation of employing some Part of the Revenues at their own Pleasure, and inspir'd them with a Boldness to attempt things, which would

* Vide Can. 23, 24, & 26. |
Caus. 12, q. 1.

not ordinarily have been permitted ; then they began to exceed all Bounds of Modesty, and then Dispensations of Charity grew into Dissipation and Profusion.

This made it necessary to provide against this Evil, but the Remedy was to come not from the Ecclesiasticks, but from the Seculars, who indeed had born all the Loss : As for any Diminution of the Estates of the Church, the Poor, who had the last Part *, only felt it, and not the Clergy, who had the two first Parts.

As the Churches of *Rome* and *Constantinople* were the two principal and most considerable, it was proper to begin the Cure there. Accordingly *Leo* the Emperor, by an Edict (1), in the Year 470. forbid all sort of Alienations in the Church of *Constantinople*. And in the Year 483, *Basilius Cecina Præfectus Prætorio*, Captain of the Guards to *Odoacer* King of *Rome*, by a Decree made in the Church during the Vacancy of the See, upon the Death of Pope *Simplicius* (2), order'd, that the Estates of the Church should not be alienated : And to the three succeeding Popes (3) nothing appear'd extraordinary in all this. But *Odoacer* being extinct, and all his Greatness with him, Pope *Simmacus* in the Year 502, assembled (4) a Council of all *Italy*, in which he represented as a great Absurdity, That a Lay-man

* See the Articles or Chapters 7 and 9.

(1) This is Cod. 14. de *sacro-sanctis Ecclesiis*, which is as well as its Prince. lib. 1. the Law of *Leo* and *Antemius*. Hist. of Florence.

(2) *Odoacer*, saith *Matthias*, (3) *Felix II.* according to *vel*, having possess'd himself of othes the III. *Gelasius I.* and the Empire, kill'd *Orestis*, and *Anastasius II.* put to Flight his Son *Augustulus*, (4) At *Ravenna*.
quitted the Title of Em-

should make Constitutions in the Church ; and with the Advice of that Council, declar'd them invalid : But to avoid the Suspicion of his designing to foment any farther Disorders, it was decreed in the same Council, That neither the *Roman* Pontiff, nor any other Ministers of that Church, could alienate any of her Estates (5), withal declaring, that this Decree was not intended to bind any other Church than that of *Rome* only.

Succeeding times made it evident, that the same Law was as necessary in all the other Churches : And therefore *Anastasius* extended the Law of *Leo* to all the Churches subject to the Patriarchat of *Constantinople*, prohibiting them also to alienate (6).

But in the Year 535, *Justinian* made a general Edict, which comprehending all the Churches of the East, the West, of *Africk*, and even all Religious Places, which forbad all Alienations to any Purpose whatsoever, unless in the Case of sustaining the Poor in the time of some extraordinary Famine, or for redeeming Captives (7) ; in which two Cases, Alienations were not only allow'd, conformable to ancient Custom, but *St. Ambrose* maketh mention, that the Estates of the Church, and even the consecrated Vessels (a), might be sold.

(5) This Canon is reported by *Gratian*, *Caus.* 12. q. 2. *Canon. Non liceat*, 20.

(6) It is the 17th Law, *Cod. de sacro-sanctis Ecclesiis*.

(7) It is the Novel 7th, *cap. 1. tit. 1. coll. 2.*

(a) Pro redemption. Captivorum, *saith St. Thomas*, & aliis necessitatibus pauperum,

vasa cultui divino dicata distrahuntur, ut *Ambrosius* dicit 2a. 2æ. quæst. 185. art. 7. in resp. ad 3. Videtur, *saith Cajetan*, Ibid. quod in casu necessitatis pauperum posset portio Ecclesiæ fabricæ debita pro pauperibus dispensari --- Nam principalis intentio juris ad fabricas vivas refertur.

This Law of *Justinian* was observ'd in the Western Empire(8), whilst *Rome* remain'd subject to the Emperors of the East; and there are many Letters extant of *St. Gregory*, which make mention of Goods alienated for the Redemption of Christian Slaves: And for the Space of 200 Years, from *Pelagius II.* to *Hadrian I.* (9), the *Roman* Church was at an incredible Expence to redeem themselves from the Ravages of the *Lumbards*, to save their Towns that were besieg'd, and to purchase Safeguards for the Country: And the same Pope *Gregory* gives a clear and satisfactory Testimony of this Matter in his Time.

The current Doctrine which is advanc'd at this Day, that the Goods and Estates of the Church are exempt from the publick Taxes, found no Countenance in those Days; but on the contrary, those Estates were the first that were employ'd, before any Contributions were laid on private Families. And it never yet came into Dispute, whether Princes have Authority to make Laws, which besides the Force of Custom and Prescription, is founded on the strongest Foundation, if we consider these Goods as the Goods of the Church; that is, that they belong'd to the whole Body or Community of Believers (11), and consequently, that it was

(8) This Law was confirm'd by *Charlemaign*, as to the Churches, which were *sub ditione Romana*. lib. 2. Capitular cap. 29.

(9) *Pelagius* was chosen in 579. and *Hadrian* in 772.

(10) See chap. 9. of the Constitutions of *Emanuel Comnenius*, who began to exempt the Churches of the East from these

Payments; and the Law 1. of the *Theodorian* Code, *de annona & tributis*, & *ibi Gothofred*, as alio the *Canons* 21, & 22. *Caus.* 23. q. 8.

(11) For in the first Ages of Christianity, the Name of the Church was common to all the Congregation of the Faithful, as well as the temporal Estates of the Church.

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incumbent on the Prince, to provide for their Preservation.

After the Empire was establish'd in *Charlemaign*, and the *Roman* Laws had lost their Force, the Abuse crept in again; which occasion'd several Prohibitions in several Councils (12), chiefly in *France*, where the Dissipations of the Church Estates were most extravagant (13). But after the Popes had insinuated

(12) The Councils of *Meaux* and *Beavois*, held in 845. *Can.* 17 and 18. of the first, *Can.* 3, and 4 of the 2d. *Concil. Agathense anni 506. sub Clodoveo, Can.* 7. *Casellas vel mancipiola Ecclesiæ Episcopi, sicut prisca canonum præcepit autoritas, vel vasa ministerii, quasi commendata fidei proposito, integro Ecclesiæ jure, possideant, id est, ut neq; vendant, neq; per quoscunq; contractus, res, unde pauperes vivunt, alienare præsumant. Quod si necessitas certa compulerit, ut pro Ecclesiæ aut necessitate, aut utilitate vel in usufructu, vel in directa venditione, aliquid distrahatur, apud duos vel tres Comprovinciales, vel vicinos Episcopos, causa qua necesse sit, vendi, primitus, comprobetur, & habita discussione sacerdotali, eorum subscriptione, quæ facta fuerit venditio roboretur. Aliiter facta venditio, vel transactio non valebit.*

(13) If the Bishops of *France* did not make Waite of the Church Estates, it was not for the Reason *Fra. Paul* gives, that the *Roman* Laws were no

longer in Force there; but because neither the Constitution of *Leo* in 470, nor that of *Anastasius*, nor of *Justinian*, were comprehended in the *Theodesian* Code, which had been publish'd in 438. which was 32 Years before the Edict of *Leo*. For the *Gallican* Church acknowledg'd no other Laws, than those of this Code.

Ut omnis Ordo, saith the *Capitular of Lewis the Debonair*, secundum legem Romanam vivat. *tom. 1. pag. 690.*

Hoc etiam volumus, ut quascunq; Francus Ripuarius servum suum pro remedio animæ suæ secund. legem Romanam liberum facere voluerit, ut in Ecclesia coram presbyteris, diaconis, seu cuncto Clero, & plebe in manu Episcopi servum cum tabulis tradat, & Episcopus Archiadecano jubeat, ut ei tabulas secundum legem Romanam qua Ecclesiæ vivunt, scribere faciat. *Regino. lib. 1. de Ecclesiastic. disciplinis, cap. 405. Janus a Cesta ad tit. Extra de servis non ordinandis, pag. 116.* So that it is no wonder if *Charlemaign* permitted the Bishops

infinuated themselves into the greatest Share of the Government of other Churches, finding the general Prohibition to prevent Dissipations, render'd in a great Measure ineffectual by the Bishops, who found Pretexts to except all particular Cases out of the general Law, they made divers Ordinances*, from the Year 1000, until 1250, in which were prescrib'd certain little Forms of Solemnity and Ceremony, which the Bishops were oblig'd to observe, and which serv'd as some Restraint and Check to this Profusion †. And Gregory X. § in the Council of Lyons, held in the Year 1274, order'd, that besides these Forms, Alienations should not be good without License from the Pope; which hath been; and is observ'd to this Day; no Alienation being ever allow'd, unless the Utility of it be evident.

But this Utility hath not fail'd to be particularly remark'd and censur'd as a real Injustice. For tho' the End of all Contracts is to make Things equal, an Advantage on one Side turning to the Detriment of the other, yet the Canonists have ventur'd to determine the Utility which the Church ought to receive in alienating; some of them having been pleas'd to say, that it ought to be a 3d Part of the Value, others, a 4th: Which hath intirely put an End to the Custom of selling Estates to maintain the Poor in an extraordinary Famine, or to redeem Slaves; since in their Construction, this must have

shops to dispose the Estates of the Church, *Capitulari 3. incerti anni, cap. 3. tom. 1. column 527.* Nor if in the German Laws, *tit. 20.* the Alienations of these Goods be forbid to none but the Priests, *tom. 1. Capitular. col. 62.*

* See the Canon, Alienations *Caus. 12. q. 2. ann. 1123.*

† See the Chap. 1. *de rebus Ecclesiae non alienandis* in Sexto.

§ Chap. 2. *de rebus Ecclesiae non alienandis* in Sexto.

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turned to the Loss, and not the Advantage of the Church.

And thus Things seem to be inverted: To sell and give to the Poor (*b*), which in former Times was the highest Christian Perfection, would, at this Day, incur great Censures: And it now consists in retaining the Possessions of the Church, without a Power even of making any Exchanges, or changing the Property of them on any Occasion whatsoever, unless upon an evident Advantage: And the Laws against Alienations, which were begun in Favour of the Laity against the Church-men, are now turn'd in their Favour, against the Laity.

(*b*) Omnes, qui credebant, possessiones & substantias vendebant, & dividebant illa omnibus, prout cuique opus erat, *Act. Apost. 2.*

Vendite quæ possidetis, & date Eleemolynam, *Lucæ 12.*

Si vis perfectus esse, vende quæ habes, & da pauperibus, *Matth. 19.*

Si necessitas immineat pauperibus erogandi, *saitb St. Thomas*, superflua cura est, & inordinata, ut aliquis in futurum conservet (bona Ecclesiæ) quod Dominus prohibet. *Matth. 6.* Dicens, nolite solliciti esse in Crastinum. *2a. 2a. quæst. 185. art 7. in fine.*

CHAP.

C H A P. XXXVII.

BUT to return to the Declaration of *Clement IV.* and *Clement V.* and the avow'd Doctrine of those Times, which gives the Pope the Right of concurring with all Collators of Benefices, and even of preventing them: This prov'd of no great Advantage, except from the vacant Benefices in the neighbouring Places to *Rome*, where the Vacancy would soon be known. As for those which happen'd in Places remote, the Power of concurring or of preventing was of no Service to the Court, because the Ordinary would have dispos'd, before the other could have Notice of the Vacancy.

This put the Court upon an Expedient, which made an universal Change as to the Benefices, and intirely destroy'd the ancient Institution throughout the whole Catholick Church. This was the Reservation, a Decree, whereby the Pope declares before a Benefice be vacant, That no Person shall take upon him to confer it when it shall be vacant; and that if any Collation shall be made, it shall be void.

And because this Matter was so odious in the World, (as all the Comments that are made upon it confess) that it was to be used very sparingly, and great Management was requir'd in preparing and making it to be receiv'd, the absolute Reservation which *Clement IV.* had made of all Benefices, *vacantes in Curia*, appear'd too severe: Therefore *Gregory*

gory X. (1), restrain'd it to a Month only; at the End of which he allow'd the Collators to make the ordinary Provisions.

Clement V. (2) added to this, the Reservation of the Benefices of the Cathedral Church, and of the Monastery of St. Cross of Bourdeaux for one Time, or Presentation only (3).

(1) Statutum Clementis Papæ prædec nostri de dignitatibus, & beneficiis in Curia romana vacantibus, nequaquam per alium quam per Rom. Pontificem conferendis decernimus taliter moderandum: ut ij ad quos eorundem beneficiorum spectat collatio, statuto prædicto non obstante demum post mensem a die quo beneficia ipsa vacaverint, numerandum ea conferre valeant, 6 *Decretal* 3. tit. de præbendis, cap. 3. Nos tot malis occurrere cupientes, omnes & singulas dispensationes sub receptione, aut retentione plurium dignitatum quibus cura animarum sit annexa--- cuicunq; personæ concessas (Cardinalibus tamen S. R. E. qui circa nos universali Ecclesiæ serviendo, singularum Ecclesiarum commoditatibus se impendunt, ac Regum filiis duntaxat exceptis) [for at Rome the Cardinals Regibus æquiparantur.] duximus taliter moderandas, quod per moderamen nostrum effrenatam talium beneficiorum multitudinem refrenemus, ipsique impetrantes fructu dispensationum hujusmodi totaliter non frustrentur. Statuimus itaq; quod obtinentes nunc ex dispensatione legitima pluralitatem hujusmodi beneficiorum --- unum tantum

ex beneficiis, quibus cura imminet animarum cum dignitate, vel beneficio sine cura quod habere maluerint, possint licite retinere. *And one Page after,* Quæ omnia & singula beneficia vacatura, vel dimissa, nostræ, & sedis Apost. dispositioni reservamus: Inhibentes ne quis, præter Rom. Pontificem de hujusmodi beneficiis disponere, vel circa illa per viam permutationis, vel alias, innovare quoquomodo præsumat. *Extravag. tit. de præb. cap. Execrabilis.*

(2) Who succeeded next to him.

(3) Specialiter Burdegalensem Ecclesiam, & monasterium sanctæ Crucis Burdegalensis, ordinis St. Benedicti --- & generaliter Patriarchales, Archiepiscopales, Episcopales ecclesias, Monasteria, Prioratus, nec non Canonicatus Præbendas ecclesias cum cura vel sine cura, & alia quælibet beneficia ecclesiastica, quæ apud sedem Apostolicam vacare noscuntur ad præsens, & quæ toto nostri Pontificatus tempore vacare contigerit in futurum, provisioni, collationi, ac dispositioni nostræ, & sedis ejusdem, hac vice, autoritate Apostolica reservamus. *Extrav. Commun. 3. tit. de præbendis, cap. 3.* Pope

Pope John XXII. his Successor, made a little larger Step, in a Constitution he made to reform the Plurality of Benefices, which prohibits the holding more than one Benefice with Cure of Souls, and the holding more than one without it, but with Dispensation: And with Exception to the Cardinals, to which this was not to extend: Commanding farther, that those who had more Benefices should resign them; and that for the future, whoever took a Benefice, who was possess'd of one already, should resign the first; which resign'd Benefices were to remain all at the Pope's Disposal. The Pretence for this Bull, which was to take away the Plurality of Benefices, was very specious: And tho' the Reservation it contain'd had no other End than advancing the Interest of the Church of *Rome*, however this was made to pass only as an accessory Advantage, and not the chief Design; and which at the first View seem'd to be without Consequence, because the End to which it tended, did not then discover itself.

The many profitable Examples this Pope hath left to his Successors of heaping up Wealth by the Collation of Benefices, make it necessary to dwell a little longer upon this Head. Many Bishopricks he divided (4), and when a rich Benefice was vacant, he gave it commonly to one who possess'd

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(4) Adeo rebus novis studuit, | He divided that of *Toulouse*
saitb Platina in his Life, ut & | into five, erecting it into an
 simplices Episcopatus bifariam | Archbishoprick, and making
 diviserit, ac divisos in unum | Suffragans the four Cities which
 redegerit, & Abbatias in Episcopatus, & Episcopatus in Abbatias vicissim transtulerit. Novas quoq; dignitates nova Collegia in Ecclesiis constituit, &c. | he dismembred from its Diocess,
 viz. *Mntauban, Lavaur, Rieux,*
 and *Lombez*. He likewise assign'd *Pamiez* to it, which *Beniface VIII.* had placed under
Narbon,

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a lesser Benefice already, that this might be given to another: And he manag'd so well, that he made one Vacancy sometimes produce six Presentations; removing always from a lesser Benefice to a greater, and filling the least Benefice with a new Beneficiary; so that Money was drawn from every one of them, and every one contented.

Narbon, of which last, *Alet* and *St. Pons de Tomiers* were made Suffragans by a new Erection. He dismembred *Castres* from the Bishoprick of *Albi*, *St. Flour* from the Church of *Clermont*, *Vabres* from that of *Rhodes*, and *Tulles* from that of *Limoges*, and placed them under the Archbishoprick of *Bourges*.

C H A P. XXXVIII.

THIS Pope invented likewise the *Annates* (1), an Imposition upon Benefices never before heard of, and which for some Time, occasion'd great Scandals.

When the Emperors or Kings conferr'd any Benefice, if those who were Candidates made any Present, or agreed to pay out any part of the Revenues as a Consideration for obtaining it, the Popes inveigh'd sharply against it, alledging that Passage in

(1) It is not certain whether *John XXII.* invented the *Annates* or not, *Platina* ascribes them to *Boniface IX.* *Tum vero Bonifacius, saith Platina in his Life*, sive vice comitum potentiam veritus, sive augendæ ditionis Ecclesiasticæ cupidus, Annatarum usum beneficiis Ecclesiasticis primus imposuit, hac conditione, ut qui beneficium consequeretur dimidium annui proventus fisco Apostolico persolveret. Sunt tamen, qui hoc inventum Joanni XXII. ascribant. See *Guimier ad tit. de Annatis in pragmat. sanct. verbo, Annatarum, pag. 468. Edit. Franc. Pinsen.*

the Gospel, *Gratis accepistis, gratis date*, Matth. 10. calling such a Contract Simonaical, and a setting to Sale Spiritual Things: And some Popes went so far as to call it Heresy. Others again there were, who refining upon it, made great Distinction betwixt the Ministry of JESUS CHRIST, which consisted in Binding and Loosing, and the temporal Possessions annexed to Benefices; and that there was no Inconveniency in Princes assigning some Part of these Temporalities to the Service of the State (2); of which Matter there was a solemn and publick Discussion.

But this Reasoning did not satisfy learn'd and pious People, for tho' the Revenues of Benefices are certainly Temporalities, yet the Right or Title by Virtue of which they are enjoy'd, is a Spirituality. And so far it was generally then allow'd, as it is at this Day, that the Popes had Reason to condemn this Practice, and call it Simony. And it was the first Occasion taken by them, to deprive Princes of the Collations of Benefices.

But after the Popes had assum'd a great Part of the Power to themselves, of which they had strip'd the Emperors, John XXII. in the Year 1316. made a Decree, That for three Years, whoever obtain'd a Benefice of more than 24 Ducats of yearly Rent, should pay one Year's Value for Expedition of his Bulls*: Which at the Expiration of the three

(2) Those who had the Power of presenting, says the Author of the Council of Trent, lib. 6. seeing, that besides a spiritual Power, they convey'd temporalities withal, viz. the Revenue of the Benefice, they thought they had a Right to some temporal Consideration, and therefore those who obtain'd a Bene-

fice were oblig'd to comply with the Condition of the Collator.

* See the Chapter *Cum nonnullæ* 11. tit. 2. de præbendis & dignitat. in Extravag. Communi. And the Decretal of Clem. VII. chap. 2. de Annatis in 7. Decretal.

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Years came to be renew'd again, as well as continu'd by his Successors, tho' in divers Places it met with Opposition: Some Places coming to an Agreement to pay only the half of the *Annat*, others to pay only for some particular sort of Benefices, and that the rest should be exempted.

This Tax was reckon'd very heavy upon private Families; for the *Annate* being paid out of their own Fortune, the Incumbent run the Hazard of dying before he reimburs'd himself⁽³⁾. Princes likewise found it a mighty Grievance, by its draining their Countries of so much Treasure, without making any sort of Return: Besides, that this Exaction being attended by a Train of other Expences in Bulls, Dispensations, and other preparative Presents, the Money which is the Sinews of Power, was irretrievably sunk, contrary to the Course of other Trafficks.

When first the Pope introduced this Novelty, the Generality of People were not capable of discerning the Difference betwixt this Payment and that which had been so much decried, when Princes conferr'd the Benefices: But all the Learn'd Men of those times universally condemn'd it as Simoniacal ^(a), from its first Establishment. In Process of Time,

(3) It was for this Reason that Bernard del Bene Bishop of Nismes, said to the Council of Trent, That he could not approve the *Annates*, neither as to the Proportion, seeing a 20th Part of the Income he thought sufficient, nor as to the Time of Payment; it not seeming reasonable that any Payment should be made before the End

of the Year, *Fra. Paolo. lib. 8. Conc. Trent.*

(a) Sæpe quæsitum est, *saitb a great Lawyer*, an jure possit exigi, & hæc fere Theologorum est opinio jurisq; Pontificii consultorum Roman. Pontificem lege Simoniaci ambitus ut cæteros Episcopos teneri, si pro sacris ministeriis pecuniam accipiat. *Net. in cap. 1. de Simon.*

Nam

Time, some of the Doctors set themselves on Work to defend it : So they grew divided in their Opinions ; some censuring it as unlawful, simonaical, and prohibited both by Laws Divine and Human ; others defending it as a Thing allowable, and as a Right belonging to the Pope ; even to the maintaining, that the Pope might of Right demand not only the *Annate*, but more if he thought fit, as being the absolute Patron or Master of all the Fruits without Exception : And lastly, others, to give the finishing Stroke, went so far, as indeed they could go no farther, and declar'd, That whatever Contract the Pope should make in the Collation of Benefices, he could not be guilty of Simony (b). Which if it were true, that all the Goods of the Church were his, were an undeniable Consequence, seeing every Man may make what Contracts he pleases in the Management of his own Estate, without

Nam præter Canones qui pecuniam omnino exigi vetant, hoc genus vectigalis a synodo Basiliensi damnatum est, & pœna ambitus adversus eos, qui hæc via ad sacra ministeria Ecclesiæ grassantur, & adeo adversus ipsum Pontificem statuta, *Sess. 21*. Nec satis peripicio ut se excusare possint hoc modo promoti a Pontifice quominus in Canonum penam incurrant, & tanquam vitio creati, ut veteres loquebantur, dignitatem honoremq; Ecclesiasticum amittant, si quis ad pricæ Institutionis Normam potius, quam receptæ consuetudinis, hæc exigere velit. Nam quoquo se vertant Pontifices, quibuscunq; decretis, constitutionibus, pactisq; hanc exactio-

nem tueantur divinum oraculum semper iis opponemus, gratis accepistis, gratis datis. *Gloss. prag. tit. de Annatis Duar. de benef. lib. 6. cap. 3.*

Vide Nic. de Clemangis de Annatis non solvendis.

(b) St. Thomas contradicts this in express Terms: Papa, *saitb he*, potest incurrere vitium Simonie, sicut & quilibet alius homo, quamvis enim res Ecclesiæ sint ejus ut principalis Dispensatoris, non tamen sunt ejus ut Domini & possessoris. Et ideo si reciperet pro aliqua re spirituali pecuniam de redditibus Ecclesiæ alicuius, non careret vitio Simonie, *2da. 2da. questio 100. art. 1.*

Injury

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Injury to any other. But in this Case there seems to be a considerable Objection, which is, That neither GOD nor Man have seem'd to give their Consent to it.

In Fine, *John XXII.* was so intent upon making the most of every thing, that in the Space of 20 Years he heap'd up an immense Treasure: And tho' he put no more Restraint upon his Expences or his Bounties, than his Predecessors, yet he left 25 Millions at his Death. *John Villars* saith, that in an Inventory of this Pope's Estate which his Brother made by Order of the sacred College, he found 18 Millions of coined Money, and 7 Millions valued in Plate and Ingots (4).

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(4) *Platina* hath Reason to say, at the End of his Life, that no Pope never left so much: And it is observable what *Platina* relates in the Beginning of his Life, that this Pope declar'd all those for Hereticks, who affirm'd that Jesus Christ and his Disciples had no Property in any Goods.

Eos, saith he, declaravit pertinaces & hæreticos, qui affirmaverunt Christum, & ejus discipulos nil privati vel proprii habuisse; quod certe, adds he very pertinently, non multum cum sacra scriptura convenit quæ multis in locis testatur Christum ejusq; discipulos nil proprii habuisse, ut illud Evangelii: Qui non vendiderit omnia quæ habet, & pauperibus dederit non potest meus esse discipulus. [the express Words of the Gospel are, Omnis ex vo-

bis qui non renunciat omnibus quæ possidet non potest esse meus discipulus, Luca 14.] It is certain, that *John XXII.* knew better, but as a good Canonist he pretended to be of this Opinion, the better to establish that which made him absolute Master of all the Goods of the Church: Whereas he is really no more than the principal Disposer of them; as St. *Thomas* sheweth in the Article I just now quoted.

To this Reflection I will add another, which is, That the *Gallican Church* hath never been more burden'd, nor more injur'd in its Rights, as to the Collation of Benefices, than by the *French Popes*: Witness the Bulls of *Clement IV. V. and John XXII.* reported by the Author; and what *Mezereay* saith of *Clement VII.* Pope of *Avignon*:

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The *Annates* at the Time of its Institution, were only paid for the Expedition of Bulls for Benefices, as they were fill'd up. But afterwards it was laid on all such Benefices, to be paid every 15 Years (c), as by being annex'd to Monasteries and Hospitals, were never vacant; from whence this Tax had the Name of *Quindennium* *. *Paul II.* laid it (5) only on the Benefices united by the Popes, since the Year 1417. But *Paul IV.* extended it to all Benefices united before that time: And *Sixtus V.* took in not only those which had been united by the Apostolick See, but all such as should be united by Legates, Nuncio's, Bishops and any others.

But to return to the Original of *Annates*, Those who oppos'd this Invention of *John XXII.* with a Zeal to hinder its spreading farther, did not obtain their Ends; but on the contrary, contributed to the Defence of them, and to furnish the Popes with an Occasion of extending the Imposition yet farther: Just as the Opposition, made also in those Days, to the Reservations, produc'd the same Ef-

Avignon: [All the Exactions and Violences, saith he, in the Life of *Charles VI.* cannot be related without Indignation, which were committed upon the Clergy. The 36 Cardinals of *Avignon* were so many Tyrants, they had every where their Officers with expectative Graces, which swept away all the Benefices; the Offices of the Cloyster [*les offices Claustraux* in the French] the Com-manderies retain'd the best of these, and sold the other or let them to Farm: *Clement* himself, besides possessing him-self of all the Spoils of the Bi-

shops, and of all the Abbots that dy'd, and his taking one Year's Rent of all Benefices on every change of the Titulary, whether it happen'd by Vacan-cy, Resignation, or Exchange, ravaged the *Gallican* Church by an Infinity of Violences and extraordinary Taxes.

(c) Propterea quod beneficia unita hujusmodi amplius vacare non speraretur, & exinde Camera & Officiates sedis Apost. detrimentum non modicum pat-teretur.

* See Chapter 4, and 5. *de Annatis* in 7. *Decretal.*

(5) Near the Year 1470.

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fect; the Court of *Rome* never failing to get any Abuses justify'd by suitable Doctrines.

And therefore *Benedict XXII.* (6), Successor to *John XXII.* under the Affectation of more Care in providing proper Persons, and such as were every way fitted for their Charge, reserv'd to himself, but for his own Life only, the Disposal of all the Benefices vacant in *Curia*, as had been formerly practis'd, as likewise of all vacant by Deprivation, or Translation to other Benefices; of all such as were resign'd into the Pope's Hands, of all that belong'd to Cardinals, Legates, Nuncio's, Officers of the Court, Treasurers of the Church Estates, and to such as were carried to *Rome* upon Business, and happen'd to dye either going or coming, about 40 Miles distant from the Court; and lastly, of all Benefices vacant by the Incumbents having taken another (d).

These

(6) *James Tournier*, Monk of the Order of Native of the Diocese of *Pamiez* in *Languedoc*, chosen *Decemb.* 20. 1334.

(d) *Gerimus* in nostris desiderii, ut debemus, quod per nostræ diligentiae studium ad quarum libet Ecclesiarum & Monasteriorum regimina & alia beneficia Ecclesiastica viri assumantur idonei, qui præsent, & profint --- Omnes Patriarchales Archiepif. & Episcopi Ecclesias, & etiam Monasteria, prioratus, dignitates personatus, nec non Canonatus & præbendas, cæteraq; beneficia Ecclesiastica cum cura vel sine cura, &c. Nunc apud sedem Apostolicam quocunq; modo

vacantia, & in posterum vacatura, nec non per depositionem, vel privationem, seu translationem, aut muneris consecrationis suspensionem per sel. rec. Joannem Papam XXII. seu ejus auctoritate factas, & per nos, seu auctoritate nostra faciendas ubil bet: Nec non si --- renunciationem admitti per nos, vel auctoritate nostra contingeret apud sedem prædictam. Ac etiam per obitum Cardinalium & Officialium dictæ sedis --- & quorumcunq; legatorum, sive nunciorum, ac in terris Ecclesiæ Romanæ rectorum & thesaurariorum --- nunc vacantia & in antea vacatura, ubicunq; dictos legatos vel nuncios, seu rectores aut thesaurarios, antequam

These Reservations so comprehensive, and which so much restrain'd the Authority of the Ordinaries, and brought so many Benefices into the Hands of Foreigners, yet being declar'd to take Place only during the Life of this Pope, were let pass and admitted. But it was not to be imagin'd that any thing once establish'd, by him that has the Power, a Prince so much for his Interest (e), tho' for so short a Period, would ever be limited within its first Bounds.

Clement VI. (7) Successor of *Benedict XII.* made the same Reservations. This induc'd *Edward III.* King of *England*, who saw all the Benefices of the Kingdom falling into the Hands of Foreigners, by means of Reservations and expectative Graces, to forbid, on Pain of Death, any provisional Benefices made by the Pope, to be receiv'd within his Kingdom. The Pope wrote with great Concern to the King, desiring him to revoke his Orders. The King, in Answer, beseech'd him to make a Refor-

antequam ad Rom. curiam redierint, seu venerint, rebus eximi contigerit ad humanis. Nec non quorumlibet pro quibuscunq; negotiis ad Rom. curiam venientium, seu etiam recedentium ab eadem, si in locis a dicta curia ultra duas diastales legales non distantibus, viz. [in places not distant more than two good Days Journies from Rome] jam forsan obierint, vel eos in antea transire contigerit de hac luce --- Nec non etiam, quæ per effecutionem quorumcunq; prioratum, dignitatum, & aliorum beneficiorum collatorum, & conferendorum in posterum, nunc vacantia, & in antea vacatura, dispositioni & provisioni nostræ, donec mile-

rationis divinæ clementia nos universalis Ecclesiæ regimini præsidere concefferit, reservamus, &c. *This Decree is in January, 1335.*

(e) Quæ gravia ac intolleranda sed necessitate armorum excusata etiam in pace mansere, saith Tacitus, Hist. 2. that is to say, The Exactions were excus'd as necessary, during the War, yet they ceas'd not in Peace. When a Right is once establish'd, 'tis no longer in the Power of Subjects to hinder its being perpetuated, and even encreas'd.

(7) *Peter Reger* Archbishop of *Reuen*, Son of the Lord of *Rose in Limsin*.

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mation in Things which were an apparent Dishonour to the Church, and a Scandal to the People : That the Princes, his Ancestors, had enrich'd the Churches of *England*, which were now fill'd with Strangers and unworthy Persons, contrary to the Will of the Testators : That his Kingdom was sensibly impair'd every Day, by the Impositions of the Court of *Rome* : That the Popes were certainly design'd to feed, and not to fleece the Sheep : That the Kings, who had heretofore dispos'd all the Benefices, had since granted the Election to the Clergy at the Popes Request ; and now they would set those Elections aside, tho' introduced by themselves, and usurp the Disposition to themselves : That, finally, there was a Necessity of returning to the old Usage, which was, That the Princes should confer the Benefices themselves (*f*).

This Difference, which lasted during the Life of this Pope, however brought his Successor *Innocent VI.* (8), to revoke all his Reservations (*g*), by a

(*f*) Cui Papæ Rex Angliæ de concilio Cleri, & populi Anglici rescripsit, quod in concessionibus hujus, quas ipse Papa faceret, præsertim advenis, qui thesauros Ecclesiæ deferrent, & in provisiones Prælaturarum nullatenus consentiret, quia cum olim Reges Angliæ Ecclesiarum Patroni de consensu sedis Apostolicæ Capitulis concesserint electionem, si Papa pacta hujusmodi non servaret, res in pristinam reverteretur naturam. Albertus Argentinenfis in *Chronico. anno 1342.*

(8) *Stephen of Albert*, of the County of *Limosin*, Bishop of *Clermont*.

(*g*) Mortuo Clemente Papa infra 14 dies electus est concorder Stephanus de Prinu, Claremontensis Francus, qui fuerat summus Pænitentiarius Clementis, & Ostiensis Episcopus, & vocatus est Innocentius VI. qui in die Epiphaniæ Domini postmodum coronatus statim revocat omnes Reservationes factas per Papam Clementem, exceptis majoribus prælaturis, & in omnibus ostendit se rigidum etiam erga Cardinales. In eodem Chronico, *Anno 1352. Naclerus ad anno 1352. vol. 2. generatione 46.*

Bull, which begun with the Word *Pastoralis*: Of this Bull many famous Canonists make mention, tho' at this Day it is not extant, any more than many others, whereby those Abuses and Usurpations would have been laid open: As by the same Arts, the Glosses or Interpretations have been robbed of every thing that made not for the Pretensions of the Court of *Rome*. But the *Indices Expurgatorii* (9), carry yet a much worse Face, which were made

(9) The Churchmen, saith our Author, in his Treatise of the Inquisition, have castrated all the valuable Books, and suppress'd every thing which might serve for Defence of the temporal Authority.

In the Year 1607. a Book was printed at *Rome*, call'd *Index Expurgatorius*, in which all the guilty Places were mark'd and condemn'd, as deserving to be cut out of certain Authors: Which make it discernable at the Instant, which are the Passages which have been changed or suppress'd in several Authors of good Reputation, that had the Misfortune to maintain the Authority given by God to Princes.

So that it is not possible at this Day to know the Sense of one of these Authors by reading his Book, there being no other Edition to be found, than that which hath been so corrected by the Court of *Rome*. But that which appears of all the most incredible, if it were not to be seen in Print is, the Decree made by *Clem. VIII.* in the Catalogue of

forbidden Books, of the Edition of the Year 1595. that all the Books of Catholick Authors, wrote since the Year 1515. should be corrected, not only by retrenching what was not conformable to the Doctrine of the Church, but also by adding what should be judged proper. [In libris Catholicorum recentiorum qui post annum Christianæ salutis 1515. conscripti sint, si id quod corrigendum occurrit paucis demptis, aut additis emendari posse videatur, id correctores faciendum curent, sin minus, omnino deleatur. *[De correctione librorum, § 3.]* And tho' it is but six Years, saith he, since this Precept hath been publish'd, yet it hath constantly been put in practice for these 70 Years. If therefore the true Doctrine concerning the Authority of Princes, be no longer to be met with in Books, but another altogether in Favour of the Church-men, we know who hath taken away the one, and substituted the other in its Room. Finally, we may rest satisfy'd, that we have no

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made by the Doctors of the Church, subservient to that Church, of all Books ; in order to accomodate them to its own Interests, before they were suffer'd to go abroad.

Some few Years after, the Reservations coming again to be reviv'd, and to gather Strength, the same King *Edward*, in the Year 1373. sent an Ambassador to Pope *Gregory XI.* then at *Avignon*, to press him to annul the Reservations intirely : Which at length,

Book left on this Subject, genuine, and conformable to the Original.

And in the §. 2. it is said, That all Propositions which are against Immunities, and Ecclesiastical Jurisdiction, or which give Authority to that tyrannical Policy, which the Seculars falsely call Reason of State. *Expurgandæ sunt propositiones quæ sunt contra libertatem, immunitatem, & jurisdictionem Ecclesiasticam.* Under Colour of correcting or suppressing these Propositions, they expunge every thing that makes for the Interest of Princes. *Item quæ tyranicam Politiam fovent, & quam falso vocant rationem status deleantur.*

By this way of reasoning, all Princes are Tyrants ; for however just and religious they are, there can be no Government without a Reason of State, by which they act, and without which no Princes could maintain themselves in their just Rights. Thus *Fra. Paolo* hath good Reason to say, in *lib. 6. Conc. Trent*, [That the Court

of *Rome* never found a more valuable Secret to make Mankind degenerate into Brutes, than to deprive them of the Knowledge which is necessary to defend them from its Usurpations.]

What therefore must be the Consequence, if our Magistrates continue to allow the Churchmen to suppress good Books? The Doctor who hath placed the History of the Council of *Trent* in the Catalogue of prohibited Books, in the Year 1685. may, perhaps, have acted out of great Zeal ; but some of the most able Men of the Kingdom have been of Opinion, his Learning was not suitable to his Zeal : And some have not scrupled to say, That in doing a great Service to the Court of *Rome*, he has done a great Disservice to the Crown of *France*.

* See *Nauclerus* in *Chronico* vol. 2. gener. 36 & 47. *Albert Krantz* in *hist. Saxon. lib. 10. cap. 4.* & in *hist. Vandal, lib. 9. cap. 6.* & *Gaguin, lib. 9. cap. 2. in Carolo V.*

after

after two Years in Agitation, were, in the Year 1375. totally abolish'd by this Pope.

But a great Schism arising in the Church upon his Death, which happen'd in the Year 1378. and produced two Popes, and consequently two Courts, the necessary Expences to support them were also doubled, to which must be reckon'd the extraordinary Occasions for prosecuting the War with Rigour against each other. Thus all Inventions for raising Money, and fleecing the People, were set on Work with fresh Vigour (*b*): Simony appear'd no where so barefaced, the two Courts holding an open Market for Benefices (*i*); and every Effay was made, that was possible, to strip the ordinary Collators of the Right of presenting.

Hitherto the Court of *Rome* had not taken off the Mask, nor had so avowedly own'd that Passion she had for Money, and that it was the ultimate End of all her Actions. She had hitherto condescended to give Reasons for what she did, that carried a

(*b*) Hæc revera de Romano Pontificatu altercatio multis incommodis, tum alias nationes, tum gentem Gallicam vexavit. Nam Cardinales 30 Clementis causam secuti exploratores per Franciam constituerant, qui Ecclesiarum opulentiores proventus inquirerent quas Reëtoribus vacuas mox sibi a Clemente obtinebant. Tulit quoq; Clemens de vacaturis Ecclesiis legem quam expectativam gratiam appellabant, qua ad adipiscendas morte possessorum Ecclesias fas usq; expectanti per Pontificem designato erat, solis ex hac lege Cardinalibus & potentioribus viris Ecclesiæ contingebant. Exigebantur præte-

rea a Clero decimæ, & de majoribus Ecclesiis dum Pastore orbatæ erant, primi anni proventus legebantur. Id annatam vocant, quam Cameræ Apostolicæ deberi Romani contendunt. *Gaguin, lib. 9. cap. 3. in Carolo VI. Vide Nic. de Clemangis de corrupto Ecclesiæ statu. cap. 27. Juvenal, de Urfinis, in the Life of Charles VI. anno. 1381. Allen Chartier and Nicholas Gilles anno 1385.*

(*i*) Tempore ejus (Ponif. IX.) valde infamis curia habebatur de labe Simon'aca, ut beneficia non tam meritis quam pecuniam offerentibus darentur. *Naucler. in Chronio, vol. 2. gener. 47. anno 1389.*

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good Appearance to the World, either on Pretence of providing better for the Benefices than the Ordinaries usually did, or of preferring some Person of particular Merit (k).

But *Urban VI.* left it no longer to conjecture, why he concern'd himself with the Collation of Benefices, when he declar'd, That no Presentation should be good, where the Value (l) was not expressed.

Heretofore Benefices were given chiefly for spiritual Purposes, the temporal Part was an accessory and an accidental Circumstance of Convenience only, and not of the first Consideration: But afterwards the spiritual Part was no more spoken of, nor the Office or Duty any longer regarded, but the Profits.

(k) *Et si, saith Clement V.* in temporalium dispositione bonorum habenda sit discretio- nis cautela, præcipue est ut ea digne & laudabiliter disponatur in Ecclesiasticis tamen rebus multo fortius inviligare nostra debet intentio, ut juxta personarum condiciones & status ad divini nominis laudem & ipsarum utilitatem provideatur ex merito Ecclesiasticis personis: Cum juxta canonicas sanctiones nil sit quod Ecclesiæ Dei magis officiat, quam quod indigni assumantur ad regimen animarum. *Extravag. Comm. l. 3. tit. de Præbendis, cap. 3.*

(l) Item vo'uit quod in gratiis quas quibuscvis personis de beneficiis vacantibus, seu certo modo vocaturis, fieri contigerit, illorum & aliorum quorumcunq beneficiorum, quæ dictæ personæ tunc obtinuerint,

seu de quibus his fuerit provisum vel concessum, vel mandatum providere verus annuus valor per Marcas argenti, aut Sterlingorum, vel libras turo- nensium parvorum, seu florinos auri, aut ducatos, vel uncias auri, seu aliam monetam secundum communem æstimationem exprimatur, nisi personæ prædictæ beneficia, quæ tunc obtinuerint, aut in quibus, vel ad quæ jus eis competit, juxta ipsarum obligationes, aut alias dimittere teneantur, alioquin gratiæ prædictæ sunt nullæ. *This Decretal of Urban is become a Rule in Chancery, and is the 55th of the Rules or Orders of the Apostolick Chancery, published by Innocent XIX. Vide Rebuff. ad Rubric. de Annatis in Concordatis, & Felin ad caput ad aures 8. num. 4. Extra de Rescriptis.*

Thus

Thus it stands at this Day, insomuch that when Power is given to the Nuncio's to confer small Benefices, the Importance of the Cure, that is, whether they shall be reputed great or little, is determin'd only by the Value of the Income : And in the Reservations of the Monasteries, the Spirituals go for nothing ; but all the Benefices above the Value of 200 Crowns are reserv'd, the rest are left at Liberty.

By these Methods the Apostolick Chamber came to a juster Knowledge of the value of the *Annates* (10), for if two Persons happen to obtain the same Benefice, the Bulls in Favour of him who values it highest, stand good, the others are made void. Some are apt to call this a setting the Benefices to publick Outcry, and taking the best Chapman : Others say, that it is only to prevent the Chamber being defrauded of its Right. But as this is a Consideration more proper for the *Annates*, we shall return to the unhappy Times of the Schism we mention'd, which made so large a Rent in the Church.

(10) This is also done, to oblige those who have not express'd the Value to take out second Provisions or Grants, dearer than the first, in order to assure themselves of the Benefice.

What would that holy Bishop of *Tournay* say in these Days? who asking Money of one of his Friends to buy Lead

to cover his Church, writ to him in these Terms :

Rogamus & petimus ut aliquid de benivola & benefica liberalitate vestra nobis mittatis, quò plumbum emamus, non Romanum, sed Anglicum, quoniam Anglico plumbo teguntur Ecclesiæ, nudantur Romano. *Steph. Tornacensis, ep. 147. ad Valdemarum.*

C H A P. XXXIX.

NO Man denies, but that the Disorders were notorious in the *Roman* Courts on this Occasion. And that which encreased them was, that some Kingdoms and Countries were so scandaliz'd with the Variety of Tricks and Shifts they saw practis'd, that they came at last to acknowledge neither of the Competitors for Pope (1). This put them upon the Necessity of an Expedient, not very endearing to the Subjects, which was, to raise and levy as much upon those who continued still in their Obedience, as they could have expected from all their Subjects together, had there been no Defection.

Germany refus'd to submit to the Reservations and Expectative Graces, and the Ordinaries constantly presented, without any Regard to the *Roman* Bulls.

On the other Side, *Innocent* VII. in the Year 1359. sent a Legate into *Germany*, to grant new Bulls for certain Sums, to such as had come in by Episcopal Collation; and also to compound for the Fruits

(1) If all the Christian Princes had done the same, without making themselves of either Party, the Schism which lasted 50 Years, would not have lasted 50 Weeks: For those Popes would not have persisted in maintaining a Dignity, where- by they reaped neither Honour nor Profit. Every Body knows the good Effect which the Letters of Subtraction had (which is a Declaration of withdrawing from Obedience, &c.) which the King of *France* publish'd in the Year 1408.

already receiv'd (a), which were quitted and released to the Incumbents, on condition of restoring a certain part to the Apostolick Chamber. But as this would have carried great Sums out of *Germany*, the Emperor *Charles IV.* forbid the levying t em, saying, It was necessary to reform the Manners of the Clergy, not their Purfès.

But all these Confusions receiv'd a considerable Increase, by the Addition of a third Pope (1), in the Year 1409. to whom tho' *France* paid Obedience, yet she stood firm in maintaining the King's Edict (2), made three Years before * ; by which all Reservations, *Annates*, and other Exactions of the Court of *Rome* were forbid, until they were settled by a lawful General Council.

(a) Misit Innocentius Papa legatum suum Episcopum Calvacensem pro subsidio, Camerae, & dedit ei potestatem dispensandi cum Clericis ad beneficia curata, vel sine cura ad dignitates aut officia quæ minus canonicè haberent, aut fuissent adepti cum fructibus inde preceptis. Erant ibi etiam Saxoniæ & Baviaræ Duces, vocavitq; Imperator legatum, & audivit eundem super commissis: Quo factò dixit Imperator, Domine Legate, Papa misit vos ad Germaniam in qua magnam pecuniam corraditis, sed Clero nihil reformatis. *Naucleus in Chronico. vol. 2. generat. 46. anno 1359.* Adde Paralipomena rerum memorabilium Cratonis Milii an. 1375. & *Chronicon. Germani mutii. an. 1360.*

(1) *Alexander V.* chosen by the Cardinals, who were Creatures of the two other Popes, by Virtue of the Substraction ordain'd by the Council of *Pisa*, after the Example of that made in *France*.

(2) The Cardinal *de Thury* (saith *Minstrelet*, a contemporary Author) came to *Paris*, and requested the Council and the University there, that they would raise two Tenths upon the *French Church*; which was not agreed to, because the University oppos'd it in the Name of all the Church, and obtain'd a Royal Mandate, to all the King's Officers, commanding that whoever came [*es mettes de leurs offices*] with such and the like Requests, should be expell'd the Kingdom. *Life of Cha. VI. 1409.*

* In the Year 1406.

This

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This King being incapable of Government, all Edicts and Acts of State were issued in the Name, or by the Authority of *Lewis Duke of Orleans*, his Brother, who had the Government of him. But the Duke being kill'd (3), it was easy for Pope *John XXIII.* to recover the Collation of Benefices in *France*, by allowing, that the King, the Queen, the Dauphin (4), and all the House of *Burgundy* should have the Nomination of all those confer'd on their own Servants, on Condition the Pope should have all the rest. Yet the Court of *Rome* enjoy'd this Agreement but to the Death of this King ; for *Charles VII.* his Son. renew'd the Edicts (b).

In several States and Governments of *Italy*, divers Regulations were also made, tending all to remedy these Abuses. *Baldus* tells us, that even the City of *Bologna*, among divers Provisions of this Kind, made an Order, That no more Benefices should be confer'd on any but Natives of that City, and of the Territory belonging to it. Nor were the Popes in those Days much considered ; a plain Instance of which appear'd at *Florence*, where *John XXIII.* residing at that Time with his Court, was depriv'd

(3) By Order of *John Duke of Burgundy*, his Cousin, *an. 1407.* as also the University. *Juvenal Ursinorum, in the Year, 1414.*

(4) The Archbishop of *Pisa* came to *Paris*, sent by Pope *John*, to treat about the Expectative Graces, and Promotions to Prelacies, the Royal Ordinances being then in Force, which plac'd the Disposition of them in the Ordinaries ---- The said Ordinances were annull'd; for the King, the Queen, the Dauphin, had the Nomination for their own Servants,

(b) *Exactiones pecuniarum, quas ab aliquibus retroactis temporibus Curia Romana, seu Camera Apostolica, sub prætextu vacantium beneficiorum, aut alias quovis modo & colore præmissorum applicar. voluit, penitus cessabunt. This Ordinance bears Date April 13th, 1418. and is reported in the Conference of Ordinances, lib. 1. tit. 3. part 2. §. 3.*

for

for five Years of the Collation of Benefices in that State, upon a Disorder occasion'd by that Pope's presenting to a Benefice (c).

It was to that Age the Court of *Rome* was beholding for Inventions, so refin'd and so serviceable to her, of Clauses insert'd in Bulls which were perplexing and inextricable, distinguishing betwixt the Petitions or Requests sign'd *Concessum*, and the others sign'd *Fiat* (5): And betwixt those Bulls dispatch'd with the Clause *Motu proprio*, and those with the Clause *Anteferri* (6); which last gives the Preference, and makes the Condition more advantageous.

From

(c) Florentini propter unicum abusum a Papa commissum in conferendo unam Abbatiam sitam in eorum ditone privaverunt Joannem XXIII. Papam in eorum civitate tunc degentem, potestate conferendi beneficia in eorum ditone sita usque ad quinquennium. *Molin. in notis ad Senatui-consultum contra abusum Pap.*

(5) The Difference betwixt the Petitions sign'd *Concessum*, and those wherein the Pope says, *fiat ut petitur*, is, That these latter always grant some Grace, and are sign'd with the first Letter of the Pope's Christian Name, and with his own Hand, betwixt the Petition and the Clauses; whereas the others are sign'd only by the Officer of the *Concessum*, in this Form, *Concessum ut petitur in presentia Domini nostri Papæ*, with the first Letter of his Name, and his Surname betwixt the Peti-

tion and the Clauses: And the *Concessum* on the Sides of the Clauses, with the two capital Letters of his Names. See the 34th Rule of Chancery.

(6) All these Rubricks began under the Pontificates of *Boniface IX.* Pope at *Rome*, and of *Benedict XI.* Pope at *Avignon*.

Charles du Molin, in his Notes upon the Edict, set forth anno 1406. against the Exactions of the Court of *Rome*, saith, *Benedictus XIII. multas valde anomalas & exorbitantes beneficiales & alias gratias, pecuniæ emungendæ gratia, faciebat, sequendo in hoc Bonifaciam IX. impium Corrivalem suum, qui adeo Simonem Magum imitatus est, ut morientibus Cardinalibus, qui Simoniam oderant summopere lætaretur, velut liberas habenas habere incipiens ad Simoniam publicè exercendam. Plus offerenti indiscriminatum*

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From hence it follow'd, that many Bulls were obtain'd for the ſame Benefice, which, beſides the *Annates* being multiply'd by this means, produced Law-Suits, and theſe were to be carry'd on at *Rome*, to the great Advantage of that Court. To which was added another Improvement, which refin'd again extreamly upon theſe Inventions, this was, That if one of the Parties happen'd to die, another Litigant was ſubſtituted, that the Cauſe might not die with him ; but that from his Death another *Annate* might ariſe, by which the Law-Suits were perpetuated, and in ſome ſort made immortal. Theſe gave Riſe again to the Clauſes *Si alteri, Si neutri, Si nulli* : By which, while the Benefice was given to a third Perſon, the Suit however went on, and was happily preſerv'd betwixt the two firſt.

To remedy therefore theſe Diſorders and Corruptions, and to put a Stop to theſe wretched Litigations among their Subjects, Princes were oblig'd to fix the Right of Poſſeſſion to Benefices, by reſtoring the Cognizance of the Beneficiary Rights to the Secular Power ; a Right, which however clear in itſelf, the Eccleſiaſticks had uſurp'd (7) by the Connivance of the Princes themſelves.

But

minatim vendebat prioritates datarum. Et hæc Mercimonia palam in Curia multis annis exercuit. Et adhuc priores Mercatores eludebat inventa Clauſula, Anteferri pro 25 florinis ; & hos rurfus per prerogativum Antelationis pro 50 ducatis, fixis etiam multis regulis Cancellariæ quas pretio refrigeret, ut latè ſcribit Theodoricus à Niem, qui illis præſens adfuit. *lib. 2. cap. 6. & ſeq.*

(7) The Parliament of *Paris*, which was in part compos'd of Counſellors that were Clergymen [*Counceillers Clercs*] contributed much to the Diminution of the Authority of the Eccleſiaſtical Judges.

Item Jurisdiction temporalis per ſpiritualem non debet impedire, & ſi contra fiat, Curia præſens conſuevit compellere ſpiritualem ad removendum impedimenta talia per captionem ſuæ

But the Regulations made by them against all these Innovations in their Dominions, serv'd but to sharpen the Industry of the Court of *Rome*, to find out other Expedients, which might have the same Effect, under other Pretexts; as well as to supply, by a Multiplication of new Rights, their Defect of Power in Matters, wherein the Interposition of Princes had restrain'd them.

suæ temporalitatis. Ita dictum | pitulo dictæ Ecclesiæ. *Cap. 29.*
 fuit per Arrestam Curie in Par- | partis 1. *Stili Curie Parliam.*
 liamento anni 1327. contra E- | §. 10.
 piscopum Rhemensem pro Ca-

C H A P. XL.

IT was in these Days that Resignations also appear'd in the World, not such as were justifiable, and made upon good Grounds, for such indeed were of very great Antiquity, but others of a very different Nature, and which the World, at this Day, by no means approves. It never was allow'd to Church-men to quit the Cure that had been assign'd them, whenever they pleas'd: For it was highly reasonable, that whoever had undertaken a Charge, and had receiv'd his Recompense for it, which is the Benefice, should continue to perform it (1).

Nevertheless, seeing a Case might happen, in which it might be necessary, or at least reasonable

(1) Can. si qui vero. Can. si quis Presbiter. & Can. Episcopus 7. q. 1. Can. Clericus 21. | q. 1. Can. Sanctorum 70. dist. Et Yvolar. not. ep. 121.

and

and expedient for a Publick or a private Consideration, that a Man should quit his Benefice: From thence came the Practice, that a Man might, with the Permission of his Superiors (2), for some lawful Cause, renounce. The Causes that were then allow'd to be so, were Infirmities either of Mind or Body, old Age (3), or the Danger in residing in a Place, where a Man happen'd to have powerful Enemies.

As soon as the Renunciation was receiv'd by the Bishop, the Benefice was esteem'd vacant (a), and the Collator, confer'd it in the same Forms as if it had been vacant by Death.

At last these Renunciations came to be practis'd for no such urgent Causes, but it grew to be a sufficient Cause, if the Renouncer had a Mind to resign it to one of his own Nomination (b). And as

(2) Vide cap. 4. extra de renunciatione.

(3) Vide cap. 10. extra de renunciatione.

(a) De Presbytero, qui Ecclesiam quam regebat nulla cogente necessitate in manu tua refutavit, & per manum Laicorum cubile sponsæ, qua se indignum, vel quam se indignam, refutando judicavit, conatur ascendere, hoc fraternitati suæ respondeo, quia justum est, ut in judicio, quod de se judicavit, permaneat, & sponsam, quam repudiavit, vivente fratre, qui ei legitimè incardinatus est, adulterare non præsumat, *Tvo. Car. not. ep. 131. vide cap. 3. extra. de renunciat.*

(b) *Balsamon* on the 76 Canon [*des Apôtres*] saith, that an ancient Bishop having a mind to

resign his Bishoprick to one of his Friends, the Assembly of Bishops would not admit his Resignation. The Passage is here translated into *Latin* which *Janus à Costa* is very remarkable.

Tu autem die, quod etiam si non ad suum cognatum Episcopus Episcopatum transmiserit, sed ad alienum, idem erit, Episcopos enim a Synodis fieri decretum est. Et ideo etiam vita functus ille urbis Philippi Metropolitanus maximus suæ Metropoli sub hac conditione renuncians, si ejus Oeconomum urbis Philippi Metropolitanum pro se ipso sancta Synodus constitueret, non est exauditus, sed exaudiit, quod si res quas post electionem ex Ecclesiæ redditibus acquireret, non potest dare, vel

a new Thing requir'd a new Name, it was call'd *Resignatio ad favorem*; because it was in his Favour only, to whom the Resignation was made, and in order to bring him into the Benefice, The Superior indeed is at Liberty to admit the Renunciation or not, but he cannot admit it, without giving the Benefice to the Person nam'd by the Renouncer.

This sort of Resignation, tho' it were a plain way to introduce hereditary Succession into Benefices, and therefore prejudicial to the Ecclesiastical Order, yet it turned to the Advantage of the Court of *Rome*, as it made Collations of Benefices more frequent, which produced more *Annates*. Avarice and other worldly Affections having wrought upon the Frailties of many Persons, to solicit and take Benefices, not with Intention to keep them always, but only until a better fell, or upon the Credit of such Preferment, to treat with more Advantage upon some Marriage, or other important Change of Condition; or to keep it for some Child, who was not come to Age: A Practice, which among pious Men hath ever been held inexcusable: It is a receiv'd Opinion, that whoever takes a Benefice with Design to renounce it, cannot in Conscience receive the Fruits: Which some again of larger Consciences affirm not generally of all, but only of such as receive the Profits, tho' they design to quit the Ecclesiastical Orders. And seeing Resignations *ad favorem* redounded to his Profit, through whose Hands they were to pass, the Court of *Rome*, to engross them all, forbid the Bishops to receive any such Resignations, reserving this Right wholly to

ad quos vult transmittere, multo | 32. *Concil. Carthag.* § 23 *An-*
magis Episcopatum. *Vide Can. ticob. § can. 17. caus. 7. q. 1.*
the

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the Pope (4). But because many Incumbents, when they drew near their Ends, took this Course of appointing themselves a Successor, a Rule was made in the *Roman* Chancery, That no Resignation *ad favorem*, made by a sick Incumbent, should be valid, unless he liv'd 20 Days after the Resignation had been accepted (c).

(4) According to the Canons, there being none but he, who can exempt from Simony. See the Gloss. *ad cap. 4. extra de pactis verbo illicita ad cap. 12. de officio deleg. verbo, dimittere.*

(c) Item voluit quod si quis infirmitate constitutus resignaverit aliquod beneficium sive simpliciter, sive ex causa permutationis, & postea infra vi-

ginti dies a die per ipsum resignantem præstandi consensus computandos, de ipsa infirmitate, ac ipsum beneficium conferatur per resignationem factam, collatio hujusmodi nulla sit, ipsumque beneficium per obitum vocare censetur. *This Rule is the 19th of the Roman Chancery.* Vide du Molin ad hanc regulam. 63.

C H A P. XLI.

WHILST the holy War lasted, or there were any Hopes of its reviving, the Pretence of so pious a Design was a large and constant Channel of Wealth to the Churchmen: But the Offerings of devout People ceased with these Hopes: And this Spring of Devotion being dried up, Indulgences, and Remissions of Sins were thought of in their Room; to be bestow'd on those, who should contribute with their Purse to some Work of Piety: And every Day new Works of this kind were set on Foot through every City; in Return to which, *Rome* granted her Indulgences, from whence great Profit redounded to the Clergy, and to this Court, who reap'd its Share. And this Matter was carried

carried so high, that every one knows the Changes (1) which were wrought by these Indulgences, in Germany, from the Year 1517.

In our Times Pope *Pius V.* made a Constitution, by which he annul'd all the Indulgences, granted with the Clause of *Manus adjutrices* (2): That is to say, with a Condition of paying Money. Yet this hath not been able to put a Stop to so gainful a Traffick as these Indulgencies afforded. For tho' they are now granted without any such Condition, yet there are placed in the Entries of the Churches little Boxes, to provoke the People's Charity; the Sight of which is a tacite demanding, where they are persuaded they cannot be saved without giving.

(1) The Schism of *Martin Luther.*

(2) Omnes & singulas indulgentias, etiam perpetuas --- per quoscunq; Romanos Pontifices prædecessores nostros, ac etiam nos, sub quibuscunq; tenoribus, & formis, ac cum quibuscunq; clausulis & decretis, ac ex quibuscunq; etiam urgentissimis causis, etiam causa redemp-

tionis captivorum, & alias quomodolibet concessas; pro quibus consequendis manus sunt porrigendæ adjutrices, & quæ quæstuandi facultatem quomodolibet continent - - autoritate Apostolica, tenore præsentium, perpetuo revocamus, cassamus, irritamus, & annullamus, ac viribus vacuumus. 7 *Decretal. tit. 15. cap. 1.*

C H A P. XLII.

TH E Times of Schism we mention'd, seem'd to put a Period also to any Hopes in the Churches of acquiring any more real Estates, or encreasing their Revenues. The Monks had now no longer the Reputation of Holiness and Strictness of Life, they had formerly maintain'd : And the fervent Zeal, which had appear'd so universal on Occasions of the Croisado's, was not only cool'd, but wholly extinguish'd. The Fryers-Mendicants only, who were all instituted since the Year 1200. had therefore some Credit left in the World, because they had parted with their Capacity of acquiring real Estates, and were under a Vow of living upon Oblations and Alms only : So that the Belief was not ill grounded, that their Acquisitions of real and fix'd Estates would have ended here.

But the Prerogative of the Apostolick See was a seasonable Expedient at Hand, to aid them in this Exigence ; by Virtue of which, a Power was granted to this Order, of acquiring real Estates ; tho' both by their Vow and Institution it was forbid : And as they had many Friends, who were greatly devoted to their Order, and had great Inclinations to enrich them, if it had been practicable, no sooner saw this Way open to their Bounty, but the Convents of these Mendicants in *Italy*, *Spain*, and other Countries, became, in a short time, very sufficiently endow'd with real Estates.

France alone oppos'd this Innovation, saying, That seeing they came into that Kingdom under the Profession of Poverty, they ought to persevere in it : Neither have they hitherto ever been suffer'd to

to acquire Estates there (1): Whereas in other Places they had made very considerable Improvements, particularly in those times of Schism, when all the rest of the Clerical Order were very low in Esteem.

In the Council of *Constance* the Schism was extinguish'd, by one of the Popes having renounc'd (2), and the two others having been depos'd (3): And in the Year 1417. *Martin V.* (4) was elected Pope by the general Council.

Great Hopes were entertain'd, that the Council and the Pope together, the two most powerful Concurrents upon Earth, would have gladly united in the Remedy of so many Abuses as had crept into the Dispensation of Benefices. And in Effect the Council propos'd to the Pope the Reformation of a Train of Distempers, which would have employ'd the skilfullest Hands, namely, Reservations, *Annates*, Expectative Graces, *Commendams*, and Collations. But the new Pope and his Court, whose Desire of

(1) The Parliament of *Paris*, Interest, and who do every
saith he, towards the End of thing for Charity, and after
his Council of *Trent*, did not they have got a Stock of Repu-
approve the Decree which al- tation, the Court dispenleth
lowed Mendicants to possess with their Vow, and puts it in
real Estates, alledging that this their Power to enrich them-
Order having been receiv'd in selves. See the Conference of
France, under a very different Ordinances, *Liv. 1. tit. 3.*
Institution, it was not just to *partic. 2. § 5.*

allow them on other Terms; (2) *John XXIII.* after he had
and that it was an Artifice in fled from the Council, and
the Court of *Rome*, to draw to been brought back again, and
themselves the Estates of the depos'd.

Laity: First, in suffering the (3) *Gregory XII.* and *Benedict XIII.*

Monks to gain Credit in the (4) *Otho Columna* created on
World, by the specious Vow St. *Martin's Eve*, whence he
of Poverty, which made them took the Name.

be regarded as People void of

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being at *Rome* (5) was stronger than that of any Reformation; meeting with the same Impatience in all the Fathers of the Council, who were wearied with the long Absence from their own Houses, made Way for the Resolution which was easily agreed to, of adjourning the Discussion of so knotty an Affair, and of so much Length to a future Council; which was intimated to be intended to be held at *Pavia*, five Years after, and so that Council broke up.

The *French* not being willing to stay so long as the next Council, a Decree was made in the Parliament of *Paris*, that no Obedience should be paid to this Pope, unless he first admitted and acknowledg'd the King's Edict (6), which suppress'd the Reservations, and the Exactions of Money in *France*. And when *Martin* sent a Nuncio into *France*, to give the King notice of his Election, the King made answer, he would acknowledge the Pope on Condition, that the elective Benefices should be conferr'd by Election, and the Reservations and Expectatives be abolish'd.

The Pope agreed to it for that time, but having gain'd some Members of the University to his Party, in the Year 1422. he attempted to make the Reservations be again receiv'd. However he fail'd in the Attempt, and they proceeded to Imprisonment of all his Adherents (7): And upon his put-

(5) Both the Pope and his Court were equally apprehensive, that the Council should meddle too much in Affairs, and penetrate too far into the Secrets of the Papal Ministry. The Council was closed April 22. anno 1418. after having

continued three Years and a half.

(6) Of April 13, 1418. See the Conference of Ordinances, Lib. 1. tit. 3. part 2. § 3 & 4.

(7) The Rector of the University, and divers others of the Members or Fellows.

ting the City of *Lyons* under Interdiction (8), the Parliament forbad Obedience to it.

Thus the Dispute lasted till the Year 1424. when Matters were compromis'd betwixt them, and they came to an Agreement, That his Holiness should admit all the Collations made before the Agreement, for good ; and all his Mandates for the future should be receiv'd. But the Attorney and Advocat-Generals, with many of the great Men, oppos'd the Execution of it, and represented the Prejudice it would be to the Kingdom, so effectually, that the Agreement vanish'd.

(8) Because that City obey'd
the King's Edict.

C H A P. XLIII.

WHILE these things were acting, the Council of *Pavia* open'd (1), which was soon after remov'd to *Sienna* (2), and soon after that finish'd there (3) with great Expedition ; no Affair of Moment having been transacted there, only great Expectations given, that the Council which was to be held at *Basil* seven Years after that, should make a thorough Reformation.

(1) Towards the End of the Year of 1423. | cio's, and two Abbots, in all six Persons.

(2) Because none were present at the first opening this Council, but the Pope's Nun- | (3) For he was under great Apprehensions of being depos'd by a Council, as *Joh^{ns} XXIII.* his Predecessor had been.

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About the End of those seven Years Pope *Martin* died, to whom succeeded *Eugene IV.* (4). During whose Reign, in the Year 1431. the Council of *Basil* at last took in hand the Reformati^ons, so necessary and so long wanted, of Abuses in the Collation of Benefices. All Reservations were prohibited, except of those Benefices, which were vacant *in Curia*: And the Expectatives, the *Annates*, with all the Equipage of that Kind, and other Exactions peculiar to that Court abolish'd.

The Pope finding such a Check given to his Power, and such important Branches of his Revenue cut off, set himself to cross the Measures of the Council; and first tried to get it remov'd to some other Place, where he might have the Prelates more at Command. But they were too powerful to let this Design take place, and after many sharp Contests betwixt the Pope and the Council, which pious Men, by interposing Day after Day, had hitherto found some means of compromising. At last, there was no avoiding an irreconcilable Breach, the Council stood firm to the Resolution of putting a final Stop to these Exactions, and the Pope to maintain his Authority and Revenues. The Pope dissolved the Council; the Council depriv'd the Pope (7),

(4) *Gabriel Condolmero*, Nephew and Creature of *Greg. XII* depos'd 1515.

(5) Open'd July 23, 1431.

(6) He would have had it at *Bologna*, a City in the Ecclesiastick State. In 1438. he remov'd it to *Ferrara*, and in 1439. to *Florence*.

(7) *Mezeray* saith, there never had been a perfect good Under-

standing betwixt the Pope and the Fathers of this holy Assembly, for if on their Side they made appear their Design, to put a Bridle on his Authority, by maintaining strenuously the ancient Rule, that the Council is above the Pope: He shew'd himself no less concern'd to have them separated. *In the Life of Charles VII.*

and

and chose another (8). This bred another Schism in the Church. *France* and *Germany* receiv'd the Decrees of this Council: And in the Year 1438. the famous Pragmatick (9) was publish'd in *France*, which restor'd the Elections to the Chapters, the Collations to the Ordinaries, and abolish'd the Reservations: In which it pursu'd the Steps of the Council of *Basil*.

(8) *Amadeus VIII.* Duke of *Savoy*, who had resign'd his Dominions to his Son, to turn Hermit, yet quitted his Hermitage again to be Pope. He was elected in the Year 1439. and owned by *France*, *Germany* and the greatest Part of the West, till the Death of *Eugene*.

After which the Princes taking part with *Nicholas V.* he was induced, part by Entreaties, part by Menaces, to consent to the Re-union of the

Church, and to renounce the Pontificate, which he accordingly did in the Year 1449. in the same Council, which he had remov'd from *Basil* to *Lausan* in *Switzerland*. After which, the Fathers confirm'd the Election of *Nicholas*, made two Years before, at *Rome*, by the Cardinals of *Eugene's* Party. *Amadeus* had taken the Name of *Felix V.*

(9) *Mezeray* calls it the Bulwark of the *Gallican* Church.

C H A P. XLIV.

IN *Italy*, where this Council never was receiv'd, and the Adherence to the Pope was very general, the Reservations had taken deeper Root. Every Pope renewing them with Ease, and introducing new Pretensions and Impositions, and shewing no Instance of Mitigation in the Rigour of any of them, except where some Expedient had been found to work the same Effect an easier way.

But this Invention seem'd to be brought to its highest Perfection under the Popes *Julian II.* and

Leo X. who first introduced Mental Reservations, call'd also Reservations *in Pectore* (1); and who, under the Privilege of keeping their secret Thoughts to themselves, us'd not to declare them in the ordinary Course of other Reservations, nor were they ever known till the Ordinary came to confer a Benefice, or some Candidate to ask it; when it was answer'd by the Datary, that the Pope had reserv'd it mentally (2): So gross a Delusion lasted some Years, however it fell after into Disuse (3), having prov'd useless and inconvenient even to those who first contriv'd it (4).

Other Methods were also strain'd, and carry'd to the utmost Pitch they would bear. For to the Resignations *in Favorem*, which were already so well establish'd, another Abuse was added, which was to resign only the Title of the Benefice, and to reserve all the Profits to the Resigner. By which means the Benefice really remain'd in the same Hands as before, the Resignation having no other Effect, but to appoint a Successor, who in Truth was only the Titular, but had nothing to receive out of the Benefice, until the Death of the Resigner. And that the Titular might not come into Possession of any thing by the Pretence of gathering the Profits himself, and paying them again

(1) That is to say, known only to himself.

(2) *John Swarez*, Bishop of *Cumbria* in *Portugal*, arguing in the Council of *Trent* upon the Mental Reservations, call'd them Robberies, and said it was better to leave the Collation of all Benefices to the Pope, than to suffer him to set his own Price upon his own Thought not communicated, not pub-

lish'd, which might therefore be reasonably imagin'd, not to have been born till the Vacancy happen'd. *Fra. Paolo Hist. of Council of Trent*, lib. 8.

(3) The Reservations were forbid by the Council of *Trent*, Chap. 19. of the Reformation of the Session 24.

(4) Who had to bear with all the Repulses and Oppositions from the ordinary Collators.

to the Refinger, it was provided, that not only all the Profits fhould be referv'd to the Refigner, but a Power to him likewife to levy them by his own Authority.

Thus the Refigner differ'd in nothing ftill from being as much the Incumbent and Owner of the Benefice as before, except in cafe the Titular died before him; and then tho' he remain'd in Poffeffion of all the Profits, yet he had no Right to appoint himfelf a Succeffor: So that the Collator might confer the Title on whom he thought fit fhould fucceed to the Benefice, after the Death of the Refigner. But the Court of *Rome* fail'd not alfo to find an excellent Expedient for this, which was, the Regrefs (5).

(5) That is to fay, The Re-
turn.

C H A P. XLV.

IN the primitive Times of the Church, there was a pious and laudable Custom, that whoever had one Cure affign'd him, never quitted his Charge for a richer (a) or more honourable: Every Man prefuming, that to perform his Duty as he ought, would take up all his Faculties.

(a) Siquis Epifcopus, *faith* per avaritiam concupivit, nec
St. Leon, civitatis fuæ medio-
 critate defpecta, adminiftratio-
 nem loci celebrioris ambierit,
 & ad majorem fe plebem tranf-
 tulerit, a Cathreda quidem pel-
 letur aliena fed carebit & pro-
 pria, ut nec illis præfideat, quos
 iftis quos per superbiam fprevit.
 Suis igitur terminis contentus
 fit quilq; nec fupra menfuram
 juris fui affectet augeri. *Ep. 12.*
ad Anaft. Theffalon. Ep. cap. 8.
vide Can. 31, 32, & 43. Cauf.
7. q. 1.

But

But sometimes the Superior, when some great Charge was vacant, for want of a Person equal to it, would find a Necessity of translating some Man of Merit, who was employ'd in a less *: And this was a Translation (1) became afterwards so sought after, either for the Convenience or the Profit, that as unusual as it had been, it became very frequent. Then the Ambition and Sollicitude of rising higher grew so prevalent, that oftentimes a Man would quit a Benefice he had in Possession, to sollicite for another, and consequently lost them both, when the Grant of the last prov'd faulty.

To remedy which inconvenience, a Custom prevail'd, which grew to have the Force of a Law, that if the second Grant should not stand good, the Man that was so unfortunate, might without Ceremony, return to his first (b): And this was call'd the Regress.

In Imitation of this Example, the Resigner had a Power granted, in Case the appointed Successor died, or renounc'd again his Title, of returning to his resign'd Benefice, and by his own Authority take Possession a-new, without any Ceremony, as if he had never resign'd it. And in case he had re-

* See the Canon, *Mutationes* 34, and the Canon, *Seres* 35. *Caus.* 7. q. 1.

(1) It began to be frequent under Pope *Urban III.* See *cap.* 3 & 7. *extra de rerum permutacioni.*

(b) Intelleximus G. Canonico referente quod cum ipse & L. Clericus de permutacione Præbendarum suarum inter se tractare cepissent tandem idem L. Præbenda ejusdem G. cuidam consanguineo assignata

præbendam suam ei sicut promiserat noluit resignare. Cum igitur deceptis, & non decipientibus jura succurrunt, licet ipsi de jure non possent Ecclesiastica beneficia permutare, ut tamen simplicitati venia tribuatur, mandamus quatenus si constiterit prætaxatum G. taliter fuisse deceptum, amoto a præbenda, sua consanguineo ipsius L. vel quolibet alio illi cito detentore, eam restitui faciatis eidem. *Cap.* 8. *extra de rerum permut.* sign'd

sign'd before he had been in Possession (in which Case the Regress could take no place) he was empower'd to take Possession by Access and Ingress (2); and this by his own Authority likewise, and without any Recourse to the Magistrate: This was call'd the Regress. Yet the Pope hath always reserv'd to himself the sole Power, without ever allowing any Share of it to any other, of receiving and admitting Resignations made on these Conditions, and of giving the Title to the Resignee, with Obligation to perform them.

As this Invention was generally condemn'd by all the Writers, particularly by the Universities of *France*, and actually prohibited by the Parliament of *Paris*, that there could not be found any specious Pretexts in all Antiquity to justify it; so there were those, who were both asham'd, and made a Scruple of Conscience to make use of it: For whose Satisfaction another Expedient was found, which took its Rise from great Antiquity, but according to Custom adapted to the present Occasions. This was the Coadjutorship.

(2) That is to say, As entering |
the first time into the Benefice.

C H A P. XLVI.

TH E R E was a very ancient and excellent Practice in the Churches, That when a Prelate, or other Minister of the Church, was become incapable through Age, Infirmary of Mind or Body, or other Impediment, to execute his Charge, himself chose an Assistant ; or the Superior appointed him one, to share the Burden of the Employment. But the Coajutor had nothing to do with the Office or Benefice, any longer than during the Life of the Incumbent (a) ; at whose Death a new titular Incumbent was made. This was a Method always approv'd, and to which there never was any Opposition.

Afterwards it coming to be consider'd, that if the Coajutor were made to succeed, it would have the Consequence of making him more diligent in

(a) By the *Canon 18. caus. 7. q. 1.* of Pope *Pelagius*, towards the Year 559. it appears, that these Coajutors were only Hirelings.

Frater & Coepiscopus Joannes ob hoc quod se in gerenda patrimonii gubernandi cura, vel in disciplina Ecclesiastica conservanda minimè fatetur idoneum, constituti presbyteri ad hæc explenda sibi exposcit adhiberi personam, ut ea quæ sunt necessaria competenti disponente sollicitudine fiant --- ideoq; præsentī vobis jussione præcipimus, ut servata primo in loco Episcopo memorato reverentia, quam vos convenit inculpabiliter cohibere, præbeatis obed

entiam constituto competentem, in nullo dispositionibus ejus spiritu contumaci resultantes; imo competenti vigilantia vestra studio, quæ pro Ecclesiastica utilitate, gerenda constitutus monuerit adimplentes; ut his ita dispositis, & consueta vobis stipendia ministrentur; & quæcunq; in præ fatæ Ecclesiæ patrimonio, vel de rebus ad eam pertinentibus repetendis sunt necessaria compleantur.

Nevertheless the Popes sometimes permitted the Bishops to appoint their Coajutors for their Successors: And in the Eighth Century this Favour was very rarely granted. See the *Canon 17. D. Caus. 7. q. 1.*

the

the Exercise of a Charge, which was to be his own; and which would also recommend him to the Inhabitants of the Place, when they regarded him not as a Stranger, they settled the Succession on the Coadjutor.

This met with a different Reception in the World, and accordingly was defended or censur'd. On one hand it was said, That all settled Successions in Benefices was pernicious, as a Temptation either to procure, or however to desire the Death of another.

On the other hand was alledg'd, the famous Precedent of St. *Augustine*, who was chosen by *Valerius* to be his Coadjutor, and also declar'd his Successor. But this Instance carries no great Weight, since St. *Augustine* himself condemns it afterwards, and would neither imitate it, nor was asham'd to impute it as a Sin of Ignorance (b), both in himself and his Predecessor.

But in these Times Coadjutors with Succession in Reversion, were appointed not only to Prelates and other Ministers, who had Business belonging to their Office, but also to simple Benefices, or Sine-cures, where there was nothing to do. So that the Coadjutor had only a Name, without any thing essential, but that of Succession in Reversion; a Thing which the Canonists have so much in Abhorrence.

(b) St. *Paulinus* particularly observes, that this sort of Coadjutorship was very extraordinary.

Non autem, *sait he*, tautum hoc scribimus gratulandum quod Episcopatum Augustinus acceperit, sed quod hanc Dei curam meruerint Africanæ Ecclesiæ, ut verba cælestia Augst-

ini ore perciperent, qui ad majorem Dominici muneris gratiam novo more provectus, ita consecratus est, ut non succederet in Cathedra Episcopi, sed accederet. Nam iucolumi valerio Hipponensis Ecclesiæ Coadjutor Episcopus Augustinus est. *Ep.* 17. *Num.* 2. & *Cor.* 120. 7. q. 1.

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In these Times likewise, every Beneficiary who desir'd to appoint his Successor, had the Liberty of choosing one of these Methods; either by the Coadjutorship with Succession in Reversion, or by the Resignation *in Favorem*; reserving to himself the Profits, with the Power of Regress: But the authorizing these Sorts of Dispensations, was reserved to the Pope alone, and to no other Person whatsoever.

In *Germany*, where the Council of *Basil* was by some admitted, by others not, there was great Diversity in the Decisions concerning beneficiary Causes. To provide against, and reconcile these Differences, *Nicholas V.* and the Emperor *Frederick III.* in the Year 1448. made a Concordat (1) of the following Tenor.

That the Benefices vacant in Court should be reserv'd to the Pope, and that the rest of the elective Benefices should go by Election. As for the other vacant Benefices, they should remain for six Months in the Pope's Disposal, and six Months in the ordinary Collators: With this Proviso added, That if the Pope fail'd in the Term of three Months to fill up the Benefices, the Collation should devolve to the Ordinaries (2).

This

(1) Concluded in the Pope's Name, by the Cardinal *John Carvajal*, call'd *St. Angelo*, Legate à *Latere* in *Germany*.

(2) An Extract of the Concordat will here be of use for a Comment on the Words of *Fr. Paolo*.

'We reserve, saith *Nicholas V.* to our own Ordination, Deposition and Provision, all

' the Churches Patriarchal, Archiepiscopal, and Episcopal; as also Monasteries, Priories, Chanonries, and all other Benefices Ecclesiastical whatsoever, with Cure of Souls, and without Seculars and Regulars, which are or shall be vacant; also those vacant by Deposition, Deprivation or Translation, by us formerly

This Agreement was not receiv'd thorough all *Germany*, and some Diocesses since in the Year 1518. observ'd the Council of *Basil*; which abolish'd all the Reservations: But in Process of Time, even those who had receiv'd the Concordat in the Beginning, ceas'd to observe it, and excus'd themselves in saying, that it had not been universally receiv'd: So that it lost its Force by being diffus'd; and not only in Places where the Bishops and Chapters have separated from the *Roman Church*, but even where they still remain under its Obedience.

In

formerly made, or which shall be made, in what Place soever.

Likewise Benefices vacant by the Decease of Cardinals and Officers of the holy See, while they shall hold the said Offices; *Exemp. gr.* of Vice-Chancellor, of Chamberlain, of Notaries, Auditors, Comptrollers, Abbreviators, and the Benefices which are, or shall be vacant, by the Death of our Commentaries, Collectors, and Treasurers, deputed, or which shall be deputed in whatsoever Place they happen to die: Moreover, the Benefices of all those who coming to, or returning from *Rome*, on any Occasion whatsoever, shall happen to die but two Days Journey from the City; provided that the Place of their Death be not the Place of their ordinary Residence: Also all Benefices secular and regular, which they possess'd at the Time of

their Promotion, whom we have promoted to Dignities Patriarchal, Archiepiscopal, and Episcopal, now vacant, or which shall be hereafter vacant.

In Churches Metropolitane and Cathedral, not subject immediately to the holy See, and in the Monasteries which are immediately subject to it, Elections shall be free, and then be brought to the said See, who shall confirm them, if they be canonical.

In Monasteries which are not immediately subject, and in other regular Benefices, for which it is not customary to have Recourse to the holy See, the Elected shall not be oblig'd to come to *Rome* for their Confirmation or Provision; besides, that these Benefices are not to be rank'd among the Expectatives, nor the Benefices *des Moniales non exemptis*, in the Disposition of the Pope.

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In the Year 1534. *Clement VII.* set forth a severe Bull concerning it, but it scarce had any Effect: *Gregory XIII.* * set forth another in the Year 1576. which had as little Effect. And Cardinal *Mandrucci* (3), Legate of *Clement VIII.* in 1594. made a heavy Complaint about it, in the Name of the Pope, at the Diet of *Ratisbon*, but to as little Purpose as the other.

The

‘ As for the other Benefices, Seculars and Regulars, not comprehended in the Reservations express’d above, we freely allow they be provided for by the ordinary Collators, when they shall fall vacant, in the Months of *February, April, June, August, October* and *December*; the Months of *January, March, May, July, September, and November* shall be reserv’d to the Pope: But if it happen that the Benefices which shall be vacant in these Months, have not been conferr’d by the Pope in three Months, reckoning from the Day of the Vacancy known in the Place where the Benefice lies, the Collation shall return to the Ordinary, or to any other to whom the Disposal shall belong.”

But this last Concession having been the Occasion of many Law-suits, daily arising betwixt those whom the Pope had presented before the three Months were expir’d, and those who had obtain’d the Collations of the Ordinaries, who conferr’d the Benefices from the Day of

the Expiration of the three Months, to prevent the Provisions which the Pope might have made, about the End of the Term, *Greg. XIII.* made a Bull, dated *Nov. 1, 1576.* by which he declar’d, ‘ That the Concession of Pope *Nicholas V.* gave no room to the Ordinaries, nor the other Collators, to dispose after the Expiration of three Months, any Benefices comprehended heretofore under this pretended Concession: But also that for the future, those whom the Pope shall have provided with these Benefices, shall be oblig’d either to signify their Impetration, or obtaining the Benefice, to the Collators, within three Months, reckoning from the Day of the Vacancy known in the Place where the Benefice lies, or to publish it in what Manner soever it be thought fit in the said Place: Declaring null, and of no effect, all the Dispositions and Provisions made by the said Collators after such Publication: And suspending from the Collation

of

The same Diversity and Confusions remain still to this Day ; for which the Court of *Rome* hath but two Remedies : One is, that the Jesuits turn all their Skill to work upon the Consciences of the Beneficiaries at their Confessions, to persuade them to take Bulls from *Rome* for Benefices, tho' provided for by the Ordinaries ; and some accordingly are prevail'd with. The other is, That when an Election or Collation is made that clashes with the Concordat, the Court of *Rome* annuls it, but then confers the Benefice on the same Person : An Expedient heretofore much used on other Occasions, as it is at this Day in the Case of Benefices of great Importance, and where the Persons are in some measure dependant on them. Not that it is of Service at the Time it is practis'd, but because the Writings are carefully kept, and serve as Registers of these Matters, to prove in After-times, that such and such Places have paid Obedience : As also many Constitutions and Decretals, which have never had their Effect, are skilfully inserted in the Books of Decretals, to make more Precedents, and draw more Consequences to their Advantage.

‘ of all Benefices and Offices, with regard to the Necessity of
 ‘ all Collators, who shall pre- the Times, and until a proper
 ‘ sume to infringe this Decla- Season offer, to exert their
 ‘ ration. Right in its utmost Rigour.

This Bull of *Gregory XIII.* * The French Translation
 sheweth, that whatever Con- saith *Gregory XIII.* for *Gre-*
 cordats and Accomodations the gory VIII. in the *Italian.*
 Popes made with Princes, they (3) *Lewis*, Nephew of *Chri-*
 always pretended to have a stopher *Madrucci*, Cardinal and
 Right of annulling them, as Bishop of *Trent*, and his Suc-
 made by way of Provision only, cessor in this Bishoprick.

C H A P. XLVII.

IN *France* the Pragmatick-sanction was vigorously attack'd by *Pius II.* (1), but defended with great Constancy by the Clergy of *France*, and the University of *Paris*. Upon which the Pope represented to King *Lewis XI.* That it would ill become him to suffer the Decrees of the Council of *Basil* to be observ'd in his Kingdom; for the Dissolution of which himself had taken Arms, and had receiv'd Money from Pope *Eugenius IV.* for that Purpose, when he was Dauphin, and had left his Father's Court in Discontent. These Reasons wrought upon the King to revoke the Pragmatick (2): But the Opposition made by the University, and the Remonstrances by Parliament, which are still found upon the Journals, where the Grievances of the Kingdom, and of the Clergy or Ecclesiastical Orders are represented, setting forth, That upon a strict Observation, in three Years time there had gone to *Rome* four Millions for Beneficiary Affairs, prevail'd with the King to re-establish it at the End of three Years (3). *Sixtus IV.* to ward this Blow, and to frustrate the Re-establishment, made a Concordat of his own,

(1) He cried, *Guerra, Guerra usq; ad capillos.*

(2) In 1461. in the 4th Month of his Reign.

(3) *Paul II.* Successor to *Pius*, sent *John Jofredi*, Cardinal-Bishop of *Albi*, to persuade him to confirm the Revocation of the Pragmatick: But after the Revocation had pass'd at the Chastelet, the Cardinal met

with a formal Opposition in Parliament, from *John de St. Roman*, Attorney-General, and at his Return to his House, the University signify'd to him their Appeal to a general Council, and then went to register it at the Chastelet. See the Ordinance of *Lewis XI.* Sept. 10. 1464. in the Conference of Ordinances, lib. 1. Tit. 3. part 2. §. 4.

which

which is extant at this Day, but never was receiv'd ; and the Pragmatick remain'd in Force. *Innocent VIII.* *Alexander VI.* and *Julius II.* fet all their Strength to abolish it, but in vain (4).

(4) They were in terrible Frights, lest the rest of the Christian Princes should take the Example of *France*, and make Pragmaticks of the same Nature, to bridle the Papal Power.

C H A P. XLVIII.

AT Length *Leo X.* fram'd a Concordat with King *Francis I.* of *France* : Of which the chief Articles were :

That the Pragmatick should be abolish'd : And the Election of Bishops and Abbots should be taken from the Cathedral and Collegiate Churches, and given to the King, who was to name a fit Person, and the Pope to confer the Benefice : It was farther concluded, that the Pope could not give Expectatives, nor make any Reservations general or special : But that the Benefices which should be vacant in four certain Months in the Year to be specify'd, should be confer'd by the Ordinaries on the Graduates of the Universities : And that those vacant in the other eight Months, should be confer'd by the Ordinaries, *ad Libitum*, on whom they pleas'd : Only that every Pope might oblige every Collator who should have from 10 to 50 Benefices in his Disposál, to confer one as his Holiness should direct ;

rect; and even two, if the Collators should have 50 or more (1) Benefices in his Collation.

Tho' there were great Difficulties to encounter in making this Concordat be receiv'd, and that the University appeal'd to a general Council, lawfully conven'd; yet the King's Authority and Interest prevailing, it was publish'd and put in Execution throughout all *France* (2).

Thus after so many Popes had, betwixt the Years 1076. and 1150. thunder'd out so many Excommunications (3), and set on work so many Conspiracies and Rebellions, with the Loss of many Millions of Lives, in order to wrest from Princes the Collation of Bishopricks, and to give the Election to the Chapters; on the contrary the Quarrel seems now inverted, and *Pius II.* and five of his Successors

(1) Cardinal of *Lorraine* debating in the Council of *Trent* on the Article of Election of Bishops, saith, That *St. Leo X.* and *Francis I.* had divided betwixt them the Collations of Benefices of the Kingdom, as the Hunters do their Prey. *End of the 7th Book of the Hist. of the Council.*

But that which *Mézeray* saith of the Concordat is worthy of Observation, *Leo X.* saith he, made the Concordate with *Francis I.* by which he obtain'd an Abolition of the Pragmatick, and assur'd to himself the Annates, payable at every Change of Bishops and Abbots. This Compromise in Reality encreaseth the Revenues of the Popes, but extremely sullies their Reputation in so fantastick an Exchange. The Pope, who is a

spiritual Power, takes the temporal Power to himself, and parts with the spiritual; that is, the Nomination of Bishops, to a temporal Prince.

(2) the Clergy of *France*, saith the same Author in another place, the Universities, the Parliaments, and all good Men, put up Complaints, Remonstrances, Protestations, and Appeals to a general Council. Nevertheless, at the End of two Years, absolute Power was to be obey'd, and the Concordat was registred in Parliament.

(3) From the Time of *Gregory VII.* to *Innocent IV.* which contains 200 Years, there were seven Emperors excommunicated, viz. *Henry IV.* *Henry V.* *Frederic I.* *Philip I.* *Otho IV.* *Frederick II.* and *Conrad I.*

sofs

sors (4) have with the same Zeal and Constancy been struggling to take the Election from the Chapters, and give it to the King, which *Leo X.* at last accomplish'd. So true it is, that a Change in Interests draws along with it, both a Change and even a Contradiction in Doctrines.

Thinking and speculative Men, such as were apt to inquire into the Reasons of this great Change in the Popes, have ascrib'd it to the Dislike they had to the Elections of the Clergy, which keep too much in Memory the ancient venerable Form and Figure of the Church in this Practice and universal Doctrine of Elections; of which we find at this Day so faint a Resemblance left: Others found other Reasons, As that it would be easier to get the Collations out of the Hands of a Prince, if he happen'd to be a weak one, or to stand in need of the Pope's Friendship, than out of the Hands of the Bishops and Clergy.

Francis I. again made many Laws to regulate the Right of Possession of Benefices, and observ'd the Concordat with great Exactness. But *Henry II.* his Son, suspended the Execution of it, during the Time he was at Wars with Pope *Julius III.* in the Duke of *Parma's* Quarrel (5). For in the Year 1551. he forbid all Kinds of Provisions of Benefices to be receiv'd from *Rome*, and commanded that they

(4) *Paul II. Sixtus IV. Innocent VIII. Alexander VI.* and *Julius II.* *Parma* as he had done *Placentia*. The Pope summon'd the Duke to appear at *Rome*, and for not appearing declar'd him Rebel:

(5) The Duke of *Parma* put himself under the Protection of *France*, to defend himself against the Emperor his Father-in-Law, who would have seiz'd the Duke's. The Emperor who had kindled the Flame, took the Pope's Part, and the King of *France* should

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should all be confer'd by the Ordinaries (6): But when the Peace was concluded, the Concordat was again establish'd.

In the Year 1561. the Estates held at *Orleans*, during the Minority of *Charles IX.* reform'd the Collation of Benefices in several Particulars, and took away many things contain'd in the Concordat (7). But great Confusions and Wars following in that Kingdom, at a Time when the Cardinal of *Ferrara* (8) came Legat into *France*, he obtain'd a Suspension of the Ordinances made at *Orleans* (9); on Condition that the Pope should forthwith put a Stop to these Corruptions, which had given Occasion to that Remedy: But nothing of this being put in Execution, the Concordat still remains in Force. And thus Affairs pass'd in *Germany* and *France*.

(6) That Edict set forth, That it was not just, that *France* should furnish the Pope with Money to make War with the *French* Nation; and therefore forbade absolutely, that any Silver or Gold should be carried to *Rome*, or into any other Place under the Pope's Obedience, for Benefices, Dispensations, or other Graces, under Pain of Confiscation to Ecclesiasticks, and of corporal Punishment to Seculars; giving the third of the Confiscation to those who should inform.

And the Procurator-general, when he made the Edict be verify'd in Parliament, said, It would be a notorious Folly in the *French* Nation, to find the

Court of *Rome* with Money, to make War against their own Prince. And besides, that they could easily live without the Papal Dispensations, which however were not of Force to acquit our Consciences before God.

(7) In the Convention of those Estates, the Deputies of the Clergy declare, that they had observ'd, that the Heresy of *Luther* was born in the same Year with the Concordat.

(8) *Hippolitus* of *Este*, of the House of the Dukes of *Ferrara*, Grandson of Pope *Alex. VI.*

(9) One of which was to forbid paying the *Annates*, and sending any Money to *Rome* for Benefices, or Dispensations.

C H A P. XLIX.

BUT the Face of Affairs in *Italy*, since we last describ'd them, hath in a great Measure been chang'd by the holding the Council of *Trent*, who made many Decrees against the Abuses then reigning in the Matter of Benefices.

And tho' from the first opening of that Council, which was in the Year 1547. it began to set itself in Earnest about a Reformation, yet none of the Decrees it made being put in Execution, till after its Conclusion, which was in the Year 1563. they must all be reckon'd to take their Rise from that Time.

Three Things this Council chiefly had in View to remedy, *First*, Plurality of Benefices; *Secondly*, Hereditary Succession; and *Thirdly*, Non-residence.

To take away Pluralities, it was decreed, That no Person, not even a Cardinal, should hold more than one Benefice; and if that were not sufficient for the Support of the Incumbent, he might have one more without Cure of Souls (1). *Commendams* for Life

(1) Quoniam multi ea quæ bene constituta sunt, variis artibus eludere, & plura simul beneficia obtinere non erubescunt, sancta Synodus præsentî decreto, quod in quibuscumq; personis, quocumq; titulo, etiam si Cardinalatus honore fulgeant [the Cardinals are here expressly nam'd, which the *Spanish* Bishops could not obtain in 1547. when they remonstrated the

Necessity of naming them, seeing, according to the Canonists, they are never comprehended under general Terms] mandat observari, statuit, ut in posterum unum tantum beneficium Ecclesiasticum conferatur. Quod quidem si ad vitam ejus cui confertur, honeste sustentandum non sufficiat, liceat nihilominus aliud simplex, sufficiens, dummodo utrumq; personalem

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Life were forbid to be enjoy'd with Benefices that had Cures, as being a Cover for holding two (2). It was also decreed, That for the Future no Monasteries should be turned into *Commendams*, and that those which were, should be turn'd again into Titles, as they became vacant (3). It prohibited also Unions for Life, which was another Pretext of giving several Benefices under one Name (4).

To abolish Hereditary Succession, it absolutely prohibited the Regress and Access; as also Coadjutorships, with Succession in Reversion, except in Cathedrals and Monasteries: And it took the Liberty to exhort the Pope to grant none, but for just

residentiam non requirat, eidem conferri. Hocq; non modo ad Cathedrales Ecclesias, sed etiam ad alia omnia beneficia quacunq; etiam commendata pertineant, cujuscunq; tituli ac qualitatis existant, *Chap. 17. of the Decree of the Reformation, of Session 24.* Where it is worthy of Observation, that this Chapter serves for an Explanation of the 2d Chapter of Session 7. which speaks only of Cathedral Churches, and makes no mention of Cardinals, but in these general Terms [*quacunq; etiam dignitate aut præ eminentia præfulgens*] by which the Cardinals, according to the Rule of the Canonists just now alledg'd, might retain several Bishopricks.

(2) Quicumq; plura beneficia curata sive per viam unionis ad vitam, seu commendæ perpetuæ recipere, ac simul retinere

præsumperit, beneficiis ipsis, præsentis canonis vigore, privatus existat, *Chap. 4. of the Reformation of Session 7.*

(3) Confidit (sancta synodus) sanctiss. Rom. Pontificem, pro sua pietate, & prudentia, curaturum, ut monasteriis, quæ nunc commendata reperiuntur, quæ suos conventus habent, regulares personæ ejusdem ordinis præfiantur. Quæ vero in posterum vacabunt, non nisi regularibus conferantur. *Chap. 21. of Reformation of Regulars, Session 25.*

(4) See the last Note but one, to which the *Chap. 17. of the Reformation of Session 24. addeth*, Illi vero, qui in præsentem plures parochiales Ecclesias obtinent cogantur omnino, quibuscunq; dispensationibus ac unionibus ad vitam non obstantibus, una tantum parochiali retenta, alias infra spatium sex. mensium dimittere, &c.

and

and evident Causes (5). But this Prohibition has prov'd without any Effect.

In the fourteen last Months of this Council (6), the Point of Residence was debated with some Warmth: For, upon a Question mov'd by the Doctors, Whether Residence of Bishops and Curates at their Churches were of Divine Right, or a Right only founded on the Canon-Law, the Council was so divided, that in the Month of *April*, in 1562. coming to a Scrutiny, there were found 67 Votes for the *Jus Divinum*, 33 for the *Jus positivum*, and 30 for coming to no Conclusion at all, without first consulting the Pope.

These of the first Opinion were those of the *Tramontains* and northern Nations, and other discontented Bishops: Of the second and third Opi-

(5) Cum in Beneficiis Ecclesiasticis ea, quæ hæreditariæ successionis imaginem referunt, sacris constitutionibus sint odiosa, & Patrum decretis contraria, nemini in posterum accessus, aut regressus etiam de consensu, ad beneficium Ecclesiasticum cujuscunque qualitatæ concedatur --- hocq; decretum in quibuscunque beneficiis Ecclesiasticis ac in quibuscunque personis, etiam Cardinalatus honore fulgentibus, locum habeat. In Coadjutoriis quoq; cum futura successione idem post hac observetur, ut nemini in quibuscunque beneficis Ecclesiasticis permittantur. Quod si quando Ecclesia Cathedralis, aut Monasterii urgens necessitas, aut evidens utilitas, postulet Prælato dari Coadjutorem, is non alias cum futura successione detur, quam

hæc causa prius diligenter à sanctiss. Rom. Pontifice sit cognita --- alias concessiones super his factæ surreptitiæ esse censeantur. *Chap. 7.* of the general Reformation of the *Session 25.*

(6) This Matter was the first time handled in the Year 1546. The first who began to awaken Mens Thoughts in this Matter, were two *Spanish Jacobins*, *Bartholmew Caranca*, and *Dominig; Soto*, who urged vehemently, that Residence was of Divine Right: Which Opinion Cardinal *Cajetan*, who was of the same Order, had maintain'd some Years before, but was said to have changed his Opinion, when he came to be a Bishop, because he never resided at his Bishoprick.

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nion were those who adher'd to the Court of *Rome* (7).

If Residence had been declar'd of Divine Right, it must have follow'd, that the Pope could not dispense with it; and that the Authority of the Bishops must have been of Divine Right, and that consequently no human Power could restrain it (8). All which had a dangerous Tendency to the Diminution of the Papal Power.

Thus the two Parties maintain'd the Dispute with great Warmth and Freedom, till at length from debating they fell into Factions and Cabals: And at

(7) In the sixth Book of his Council of Trent he saith, That the Legates got a Writing to be read in a general Congregation, by which the Fathers were desir'd to declare their Opinions, whether Residence were of Divine Right or no, by the single Expression of *Placet*, or, *non Placet*. And that the Votes being taken, 68 were found *Placet*, 33 *non Placet*, and 13 *Placet, consulto prius sanctissimo Domino nostro*, and 17 *non Placet, nisi prius consulto s. D. n.* He adds, That the 13 differ'd from the 17, in that they were for the Divine Right being declar'd, whereas the 17 were in Effect not for it, but consented in case the Pope gave his Consent: And tho' these Distinctions were Metaphysical enough, yet the 13 and 17 were equally agreed in making their Court to the Pope.

(8) *Paul Jovius* Bishop of *Nocera*, debating on the Point of Residence in the Council,

said, That as the *Jus Divinum*, if once it were admitted, was a Thing could never be disclaim'd again, so it would serve as a Buckler to all rebellious Bishops against that Pope, whenever he cited them to *Rome*, to give an Account of their Actions or Doctrine; as the Archbishop of *Cologne* had done against *Paul III.* That he much fear'd some Bishops would, under Covert of the *Jus Divinum*, withdraw themselves from the Obedience of the Pope, on which depended the Union of the Church: But he would venture to tell them, this would be a fair Encouragement to the Curates to shake off the Episcopal Authority; because, being the immediate Pastors, they would pretend that their Flock was nearer to them than to the Bishop; by which the Hierarchy of the Church would degenerate into Anarchy. *Hist. Conc. Trent. lib. 6. & 7.*

the

the End of 14 Months, Residence was determin'd and enjoin'd, but without declaring by what Right Men were oblig'd to it. Only Penalties were laid on such as did not reside (9). And for the rest, all things were left in their former Estate.

In the mean time those who were present at this Council, and who have since left any Writings behind them, especially of Divinity, have not scrupled to assert, That Residence is of Divine Right, and that to affirm the contrary, was to deny the sacred Scriptures, all Antiquity, and even natural Reason itself (10). But then, not to draw the In-

(9) Ne ea quæ de Residentia sancte & utiliter jam antea sub felicis recordat. Paulo III. sancita fuere in sensus a sacro-sanctæ Synodi mente alienos trahantur --- declarat sacro-sancta Synodus omnes Patriarchalibus, Primatialibus, Metropolitanis, ac Cathedralibus Ecclesiis quibuscumq; præfectos etiam si S. R. E. Cardinales sint, obligari ad personalem in sua Ecclesia, vel Diocesi residentiam, ubi injuncto sibi officio desungi teneantur, neq; abesse posse --- Nisi Christiana charitas, urgens necessitas, debita obedientia, ac evidens Ecclesiæ vel Reipublicæ utilitas postulent, & exigant.

And one Page after,

Si quis autem contra hujus decreti dispositionem abfuerit, statuit sacro-sancta Synodus præter alias pœnas adversus non residentes sub Paulo III. impostas, & mortalis peccati reatum, quem incurrit, eum fructus suos tuto conscientia retinere non posse, sed teneri illos fabricæ

Ecclesiarum, aut pauperibus loci erogare, prohibita quacumq; conditione, vel compositione, quæ pro fructibus male perceptis appellatur, &c. *And as for Curates,*

Liberum esse vult Ordinariis per censuras Ecclesiasticas, & subtractionem fructuum, aliaq; juris remedia etiam usq; ad privationem compellere. *Cap. 1. of the Reformation of Sess. 23.*

(10) The *Jacobin* Fryar *Bartholomew Caranca*, scrupled not to say, in Presence of all the Fathers of the Council, That it was a diabolical Doctrine. It were to be wish'd, that the Bishops of the Court were so persuaded; they would not then stay till the Prince, weary of seeing their Faces, sends them to reside in their Bishopricks; or at least, that when they are commanded thither, they would not think themselves going into Banishment.

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dignation of the Court of *Rome* too much upon themselves, they found out some Exceptions, by which the Pope had a fair Way left open to Dispenfations.

As for the Reservations, tho' a Point so essential, and now grown to exceed all Bounds, the Council let them pass unobserv'd, because, indeed, they concern'd the Pope's own Person; so they continued as they were, and by continuing, they have since encreas'd *.

* See the three last Pages of |
the following Chapter.

C H A P. L.

IT was imagin'd, with great Appearance of Probability, that the Abolition of the Unions, *Commendams* for Life, the Regress, and Coadjutorships would have proved a sovereign Remedy, at least to the greatest Part of these Corruptions. But an Expedient was quickly found on this, as on other Occasions, to elude the Efficacy of the best Medicines; an Expedient, which had not only the same laudable Effect with the four Inventions which were suppress'd, of religiously preserving all the Abuses, but even a greater: This was, the Pension.

It hath been an Observation of pious and devout Persons, That the Court of *Rome*, as if it had been a standing Order in those Times, never suffer'd a gainful Abuse to be corrected or abolish'd, but she had a higher to put in the Room of it, more notorious and more profitable: Which is sufficiently

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verify'd in this of the Pension. Yet it is not to be understood, as if the charging Benefices with Pensions were an Invention of our Times, but only the Manner, and the frequent Practice of it, which is new and peculiar.

When all the Ecclesiastical Goods were in Common, the Name of Pension was a Thing unheard of: And when they came to be set out and divided into Benefices, the universal Practice, without any contrary Instance, was to confer them intire, and without Diminution. But afterwards, when the Clergy had learn'd to litigate their Rights, and those Rights were doubtful, it was a natural Compromise for one of the Parties to yield up his Pretensions, upon his having on Part of the Revenues allotted to him, under the Name of Pension*. Likewise if two Incumbents, for some good Cause, agreed to exchange Benefices, with the Consent of the Bishop, he who quitted the better Benefice had it made up to him in a Pension †. And again, when any one resign'd with the consent of the Prelate, a Pension was assign'd him for his Maintenance*.

Of these three sorts of Pensions, the Decretals of the Popes towards the Year 1200. make Mention: France admits them still as legitimate † and authen-

* See the Chap. *Nisi essent* 21. *extra, de Præbendis*; which is the Foundation of Pensions, according to the Gloss, which saith upon this Decretal, that *Occasione hujusmodi provisionis assumunt quandoq; aliqui causam male faciendi*. Gloss. in verb. ex jussione, in fine.

† Cap. 6. *extra de rerum permutatione*.

* Vide Cap. ex parte 12.

extra, de officio Judicis de leg. & ibi Felin. Num. 1. Felin. ad Cap. ad audientiam. Num. 2. extra de rescriptis.

† Vide Rebuff. tract. de pacificis, Num. 110. Duaren de benefic. Lib. 6. cap. 4. Coras Sacerdot. paraph. 1. cap. 4. Num. 12. & Joan. Davezan de pensionib. benefic. pag. 88.

¶ Cap. per tuas, *extra, de donationibus*.

tick, whereas she rejects a Train of others as deserving, and of great Variety ; namely, such as are given to one for his Livelihood only, and for no other Consideration ; or for having merited well of the Apostolick See ; or for having serv'd such a Church or such a Prelate ; for being learn'd or for Probity of Manners * : Or only for being in the Pope's good Graces : And lastly, such as are given to Children, because they are of promising Parts.

All these are justifiable Motives, according to the Canonists, for granting Pensions ; to which they scruple not to add, that the Pope may charge any Benefice whatsoever with a Pension, and give one to whomsoever he pleaseth, without any of the Causes allowed ; and that its being the Pope's Will, is sufficient to secure the Conscience of him that receiveth it.

So that, whereas formerly it was usual to hold two Benefices with Cure of Souls, the one in Title, the other in *Commendam*, or else the two united Benefices for Life, with Obligation to allow a Stipend to the Priest who officiated in one of them : At present the Benefice is given in Title to another, and the Revenue of it, by way of Pension, to himself ; which turns all to the same, and even answers better all the Ends it was design'd for : Before, the Beneficiary was answerable for the Faults of his Substitute, and therefore was oblig'd to have an Eye over his Behaviour ; but this way he hath the same Advantage, freed from all the Care.

Likewise, whoever took a Coadjutor to assist him, or resign'd with a Condition of Regress, had still some Care of the Benefice remaining on him, where-

* Cap. de multa, in fine ex- | de Pensionibus. p. 89.
tra, de præbendis. Davezan

in he had some Interest, by the Power he had of re-entring. But on the contrary, he who resigns, reserving to himself a Pension, delivers himself at once from any Care or Duty incumbent on him from the Benefice: And whether the Resignee die or resign, is wholly unconcern'd, his Pension being secured and paid without any Trouble.

Sundry other Considerations make a Pension more eligible than a Benefice. Many Benefices require entring into holy Orders, and consequently a certain Age to qualify him for the receiving them: The first Tonsure, and the Age of seven Years qualify for a Pension.

Pensions are also given even to Laymen; as to the Knights of *St. Peter*, who were instituted by *Leo X.* To the Knights of *St. Paul*, who were instituted by Pope *Paul III.* To those call'd the pious Knights instituted by Pope *Pius IV.* and to those of *Loretto* by Pope *Sixtus V.* Every one of which may have from 150 to 200 Crowns in Pensions, and to whomsoever the Pope pleaseth besides.

When Men held more than one Benefice at a Time, there was always a Complaint of something wanting, something to be mended, for which a Dispensation was necessary, which cost Money. And yet for all this, the Casuists have been so incurable in their Scruples, as to Doubt, whether even Dispensations can set the Conscience clear in this Case: But for Pensions, they may be held without Scruple, and without Number, no Pensions being incompatible.

Another Advantage in a Pension is, That it may be given with a Power of assigning it to another at Pleasure, which cannot be done in the Case of Benefices, without passing through the Forms of Resignation: And whereas Resignations are not valid, if the Resigner live not 20 Days after, a Pension

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sion may be transfer'd and assign'd at the Point of Death.

But the Consideration which recommends it beyond all others is, that a Pension may be extinguish'd, or to speak more intelligibly, may be turned into ready Money; tho' every Contract made where a Benefice is, the Consideration is reputed simoniacal.

By extinguishing a Pension, is only meant to receive a Sum of Money from the Beneficiary or Incumbent, which dischargeth him from paying the Pension: Which Sum is determined by the Age of the Pensionary.

Before our Days, when there lay no way open of making Money of Benefices, it would have pass'd for an infinite Offence both against GOD and Men: Now it is done avowedly, in these Terms, *I have a Benefice of 200 Crowns value, I resign it to John or Thomas, for a Pension of 100 Crowns: And afterwards I extinguish the Pension for 700 Crowns paid down: Thus I have made 700 Crowns of my Benefice without Sin.* All which Circuit of Words to People of gross Understandings and little Penetration, seems to amount only to this, *That I had sold my Benefice for 700 Crowns.*

There are besides many more Conveniencies belonging to a Pension, according to the Practice at this Day, than to Unions, *Commendams*, Coadjutorships, or Regresses. Some People, who extolling the many fruitful Ways the Pope hath of raising Money for the Occasions of the Apostolick See, have affirm'd, That if he should set open the Door of the Regress only, he might raise all he had occasion for, extremely betray their Ignorance in these Beneficiary Matters; for the Regress would not

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now bring in one Farthing (1): The Pension is, by many Degrees more preferable for Profit and Convenience: It was therefore the easier to execute [*il Concilio le Concile*] as it turn'd more to Advantage.

This seems neither intelligible in the Italian nor French.

But the taking away *Commendams* (2) from the Monasteries, which the Council likewise enjoyn'd, hath been without Effect (3) to this Day, and even many Monasteries, which were in Title only, have been since turned into *Commendams*, for want of some Contrivance to make Advantage of their Suppression: And since the Pension can be impos'd by none but the Pope, the Court of *Rome* draws great Advantage from that Privilege.

These were the Changes introduced in *Italy* by the Council of *Trent*, which, by not having taken any Notice of the Reservations, have given an Opportunity of multiplying them to that Degree, that the Pope hath five Parts in six of the Benefices in his Disposal; with very reasonable Hopes, that the Sixth which remains, will go the same way.

By the Rules of Chancery, all such Benefices are reserv'd to the Pope, as *John XXII.* and *Benedict XII.* reserv'd to themselves*; and also all such as were

(1) Seeing those who obtain'd them would not be able to make any use of them, because of the Opposition from the Bishops and Magistrates, especially in *France*, where the Parliament of *Paris* hath hinder'd their being receiv'd.

(2) In the Chap. 21. of the Reformation of Regulars, of the Session 25. quoted in the Notes of the precedent Chapter.

(3) For the Court of *Rome*, always subtle in Distinctions, thought fit to declare, after

the closing the Council, that the Benefices which had accustom'd to be in *Commendam*, might reasonably remain so. Now seeing for more than 100 Years the Popes had put almost all the regular Benefices in *Commendam*, there were very few left, which had not had two or three *Commendatories*; and consequently Custom was always adjudg'd to be on their Side, for being in *Commendam*.

* See the Rules in Chancery, *tempore Innocent. X. Rule 1.*

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obtain'd by any Person who had been an Officer in the Court, tho' he had quitted the Office. To him also are reserv'd all Patriarchats, Archbishopricks, Bishopricks, and Religious-Houses of Men, which exceed the Value of 200 Florins of Gold †; likewise all Benefices becoming vacant by the Cession, Deprivation, or Death of the Collator, whoever he be, until his Successor have obtain'd peaceable Succession: All the chief Dignities in Cathedral and Collegiate Churches, Priories, Provostships, and other conventual Dignities and Preceptories of all the Orders, except the Military: Benefices held by any Domestick of the Pope or Cardinals, tho' he were no longer in their Service, and tho' he had quitted it, or tho' his Master were dead: All Benefices held by Collectors and Sub-collectors; All held by *Roman* Courtiers, who happen to die in the Journey, when the Courts travels: All held by Chamberlains, and Criers or Serjeants*. Besides all these Reservations, which in Reality comprehended all the principal Benefices, and a great part of the rest, the Pope generally reserves to himself all those which should become vacant in eight Months of the Year †, leaving only four Months of Disposol to others: And yet this is only for such Benefices as are not of the Number we have recited. Lastly, a Constitution of *Pius V.* reserves all Benefices vacant for Hereſy (4), or for *Confi-*
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† Rule 2. ¶ Rule 4.

* Rule 5, 6, 7.

† Rule 9.

(4) Omnia & singula beneficia Ecclesiastica, cum cura, & sine cura secularia, & quorumvis Ordinum etiam S. Joannis Hierosolymitani, & aliarum

quarumvis militiarum regularia, quæcunq; & qualiacunq; sint, etiam si secularia, canonicatus & prebendæ, dignitates & personatus, administrationes, vel officia in Cathedralibus etiam Metropolitans, vel Collegiatis, & dignitates ipsæ in Cathedralibus

*dentia** (5), and all that shall not be conferr'd according to the Decree of the Council of Trent (6). So

thredalibus etiam Metropolitani post pontificatus majores, seu Collegiatis Ecclesiis hujusmodi principales Regularia vero beneficia hujusmodi, monasteria etiam consistorialia, prioratus, præposituræ, præpositatus dignitates etiam conventuales, vel officia etiam claustralia, ac hospitalia, & præceptorix, ordinationi & dispensationi nostræ & sedis Apostol. hac perpetuo valitura constitutione, autoritate apostolica, tenore præsentium reservamus Declarantes omnes & quascunq; impetrationes de beneficiis quomodocunq; qualificatis, in futurum faciendas, & obtinendas, beneficia hujusmodi propter hæresim vacantia, & in futurum vacatura, non comprehendere, nisi specialiter vacationis modus propter crimen hæresis expressus fuit. *Decret. lib. 7. tit. 11. cap. 4.* This Constitution is in *January, 1566.*

* Which is keeping a Benefice in private Trust for another.

(5) Ad aures nostras pervenit, ut nonnulli non veneantur — beneficia secularia, & regularia in Confidentiam, quam Simoniacam pravitatem sapere non ignorant, acceptare, ac retinere. Nos — ne abusus, vel potius delictum hujusmodi ulterius progrediatur, celeri remedio providere volentes, præmissorum omnium cognitionem nobis, & successoribus nostris Rom. Pontificibus reservantes, omnes & singulas confidentia-

rum hujusmodi causas, per nos summarie, simpliciter, & de plano, audiendas, cognoscendas, decidendas, & totaliter exequendas, ad nos advocamus, decisioniq; & terminationi per nos super illis faciendæ standum, acquiescendum, & omnino parendum & obediendum fore, statuimus & ordinamus. *Decret. 7. tit. 10. cap. 10.*

(6) Nos ad quorum notiam pervenit, nonnullos ex venerand. fratribus nostris Archiepiscopis, & Episcopis, excurrente vacatione parochialium Ecclesiarum, eas nullo aut minus rite servato examine, præsertim illo quod per concursum fieri debet ex concilio Tridentino, vel etiam rite servato examine personis minus dignis, carnalitatis, aut alium humanæ passionis affectum, non rationis Judicium sequentes, contulisse, volentes hujusmodi, ac etiam futuris periculis occurrere, autoritate Apostolica, tenore præsentium, omnes & singulas collationes, provisiones, institutiones, & quasvis dispositiones parochialium Ecclesiarum ab eisdem Episcopis, & Archiepiscopis, ac quibuscunq; aliis collatoribus, præter & contra formam ab eodem Concilio Tridentino præscriptam, factas, aut in futurum faciendas, nullas, irritas, ac nullius roboris fore & esse, decernimus & declaramus easq; omnes, sic vacantes, nostræ & sedis Apostolicæ dispositioni reservamus. *Ibid. Cap. 2.*

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that whoever shall put all these Reservations together, will be found to have done the Pope no Wrong in the Calculation, and that he hath at least five times as many Collations as all the other Collators put together.

To give every one their Due, we ought not to pass over in Silence the vigilant Care express'd by the Popes, that the Bishops themselves and the other Collators should have no Door left open to practise any Abuses. And therefore they have never been allow'd to unite Benefices for Life, nor to put them in *Commendam* for Life; nor to dispense with the Plurality of Benefices which are incompatible; nor to grant Regresses or Coadjutorships with Succession in Reversion: And now the Popes shew the same Vigilance at this Day, in prohibiting the Prelates to charge any Benefice with the least Pension, or to receive Resignations *in Favorem*: And even as to absolute Resignations, which have been of so ancient Usage in the Church, *Pius V.* in 1568. prohibited all the Ordinaries, who receiv'd any Resignations, under the most grievous Penalties, from conferring the Benefice resign'd, to any of the Parents, Allies, or Domesticks of the Resigner; enjoining too, that neither by Word, Gesture, nor any other Sign, the Person should have any Intimation to whom the Resigner desir'd the Benefice should be given (7).

CHAP.

(7) Caveant Episcopi, itemq; omnes Electores, præsentatores & patroni tum Ecclesiastici, quam Laici, ne verbo quidem aut nutu, aut signo futuri in hujusmodi beneficiis successores ab ipsis resignantibus, aut aliisq; eorum significatione, vel hortatu designentur, aut de his assumendis promissio inter eos, vel etiam intentio qualiscunq; intercedat. Ceterum præcipimus atq; interdiciamus, ne ipsi Episcopi, aut alii collatores de beneficiis, & officiis resignandis, aut suis, aut admittentium consanguineis,

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ſanguineis, affinibus, vel familiaribus etiam per fallacem circuitum multiplicatarum in extraneos collationum, audeant providere — Qui contra fecerint, a beneficiorum, & officiorum collatione, nec non electione, præſentatione, & institutione, tam diu ſuſpenſi rema-

neant, donec remiſſionem à Rom. Pontifice meruerint obtinere; & qui talia beneficia ſeu officia receperint, eos prædictis pœnis volumus ſubjicere. *Decretal lib. 7. Tit. 14. cap. 3.* This Decretal is dated April 1, 1568.

CH A P. LI.

IT is conſtantly maintain'd by all the Canoniſts and Caſuiſts, that all Compacts or Bargains in which Benefices are concern'd, are ſimoniſtical, when it is done without the Pope's Concurrence, but that being obtain'd, gives a Sanction to every Thing; founded on this univerſal Propoſition, That the Pope cannot commit Simony in beneficiary Matters,

This being a Doctrinè with which the World is not much edify'd, ſome Canoniſts more modeſt than the reſt, diſtinguiſh betwixt a Simony forbid by the Laws of G O D, and one forbid by human Laws only (1); Adding withal, that the Pope alone is not capable of committing Simony of the latter Sort: But this Diſtinction ſeems to clear no Difficulty; for that which is not evil in its own Nature, nor forbid by G O D, deſerves not the Name of Simony: Beſides that it is Labour loſt to make a Law, and not to have it obſerv'd. But whoever

(1) This is the Diſtinction upon the Gloſs, upon the Chapter, *Cum pridem* 4. verbo [illicitæ] *extra de pactis*: Which is

followed by all the *Tramontains*. See *Felin ad cap. ex parte* 12. Num. 1. *extra de offi. io Judicis delegati*.

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reflects thoroughly on this Point, without seeking a Subterfuge or Evasion by Words, will see that both the one and the other Simony is prohibited by GOD.

Certainly it is a Justice which cannot be denied the Pope, that he hath held the Bishops so strictly to their Duty, that he hath nothing to answer for in that regard. And it is a signal Instance of the Divine Favour, which hath enabled the Popes to preserve the rest of the Church so untainted from the Corruption of Simony, since they have not been able to defend themselves, nor their Court from the Infection.

And as we may have leave to hope (2), that one Day will produce some Pope of so much Vertue, as to make a Reformation in his Court; there cannot surely be a plainer Road than is already mark'd out to him, to accomplish it, in putting himself under the Obedience and Discipline of those Laws, which have been practis'd with so much Rigour on the other Bishops. Then we should soon see the happy Effect, if it were not defeated by Flattery and Insinuations very improper for great Reformations; such as, that the Popes who are, throughout all *Italy* and in some other Places, in Possession of a Privilege so valuable, as not to be subjected to any Rule, have not Reason to divest themselves of the Right (3); and do a manifest Prejudice to the

(2) Chiefly at this Day, when God hath given the Church a Pope irreprehensible, and who having so constantly renounced the Flesh, and the Inclinations of Blood, may say with St. Paul, *Mibi mundus crucifixus est, & ego mundo.* Galat. ultim.

(3) For the Court of *Rome* hath establish'd it as a fundamental Maxim, that the Pope hath not the Power of making any Alteration in the Papal Authority, and consequently cannot, for any Reason whatsoever, lawfully release any Right, nor would it be valid.

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Apostolick See. Which is a Reasoning so directly contrary to the profess'd Doctrine which the ancient holy Popes and Fathers have taught.

But it is easy to determine, by what hath been said, that if the Pope have so absolute a Power over the Benefices and Ecclesiastical Goods, he is subject to no Rule himself in the Dispensation of them. For to reason justly, If the Church of every particular Place be absolute Mistress of the Goods she is possess'd of, because those who had the Property of them before, had transferr'd it to that Church with the Permission of the Prince, who, by Virtue of his Laws, had made it capable of acquiring Estates, it follows, that these Estates ought to be under the Management and Administration of those, to whose Care they are committed; *first*, according to the Law, *secondly*, according to the Conditions prescrib'd by the first Owner, *viz.* the Donor or Testator; and *finally*, according to the Directions of the Church to whom they belong; provided still, they contradict not the Disposition of those from whom she derives her Right.

This is so evident, and carries so much Conviction along with it, that whoever disputes it, seems either to be void of common Sense, or wilfully to renounce the Light of his own Reason.

The Church-men have the Administration of these Goods, by Virtue of the Laws, which have impowered Christian Communities to acquire immoveable Estates, by the Will of the Donors and Testators who have bequeath'd them, and by the Authority given by the Church, declar'd in the Canons. They are therefore oblig'd to govern and dispense these Goods according to the Laws, Conditions, and testamentary Dispositions, and withal, according to the Canons: And whatever is done

contrary to these, can be accounted no other than Injustice and Usurpation.

The Canonists say, That the Pope hath a Power so absolute over the Ecclesiastical Goods and Benefices, that he can unite, divide and bestow them in whatsoever Manner he pleaseth, confer them before they be vacant, erect new ones, impose Services, Burdens, and Pensions, in which no Bounds can be set him (4); and finally end in this decisive Conclusion, That in Beneficiary Matters, the Will of the Pope stands in place of Reason.

It is not easy to carry a Doctrine higher, than where Reason is declar'd useless, yet they stop not here, but add, That the Pope can change Dispositions of Wills (5); and apply the Legacies of Charity

(4) St. Thomas did not believe this, who speaks so plainly, declaring, That the Pope is only the principal Dispenser, and that Honesty and Fair-dealing is absolutely necessary to that Trust. He speaks of Bishops, among which he includes the Pope himself in these Terms, *Ecclesiasticorum bonorum sunt dispensatores vel procuratores --- ad dispensatorem autem requiretur bona fides.* 2. 2. quest. 185. art. 7. Now Honesty and Fair-dealing are as incompatible with the Disposition *Ad Nutum*, as Liberty with Servitude. And consequently, if the Pope is subject to the same Infirmities with other Men, and to the same Passions, his *Ad Nutum* may sometimes occasion Evils, if Princes and Bishops always left him to himself.

(5) Saith the Author, towards the End of his 6th Book of the History of the Council of Trent, As Wills take their Force from the Civil Law, they cannot be changed, but by the Prince or Magistrate. And if any one say, that it is the Law of Nature which gives them Force, it is answer'd, That it is for that very Reason that the Ecclesiasticks ought still to have less Authority, since none but the Prince who can dispence with this Law, when there is Reason to do it. Now, according to St. Paul, the Ministers of Christ have no Administration but in Divine Matters. It is worthy of Observation, by the way, that the Roman Magistrates were so religious in Point of Wills, that even Tiberius could not obtain, that the Money

urity to other Purposes than they were given. And it cannot be denied, that this Practice has introduc'd all the Changes which the Church has undergone in her Institutions and Policies : The Question still remains, if it can admit of any Doubt, who hath err'd, the Ancients, or the Moderns.

Martin Navarr, with some others of the most moderate among the Canonists, restrain the Proposition of their high-flown Brethren to this, That the Pope may only alter Testaments, when there is a lawful Cause for it. Otherwise it would be to deprive a Man of what is his own, and of the Right which the Natural and Divine Law gives him over it : And then proceeding to instance in Particular, adds, That the Pope cannot, without good Cause, give to one Church what hath been left to another (6) : How much less then can he do it to Persons not nam'd ?

He saith withal, that this Assertion of the Canonists, That the Will of the Pope is of equal Authority with Reason itself in Beneficiary Matters, is to be understood only of such Things as are of positive Right, but not of such as cannot be put in Practice without violating both the Natural and Divine Law : And those who do not allow an unlimited Power to the Pope, should bring the Canons of the

Money left by Will to build a Theatre, should be employ'd to another Use. *Censente*, saith *Suetonius*, *ut Trebinis Legatam in opus novi Theatri pecuniam ad munitionem viæ transferre concederetur, cōtinere non potuit, quin rata voluntas legatæ esset.* In Tib.

ad cap. quæ in Ecclesiarum Num. 44. extra de constitutionib. respectu beneficiorum latissima sit potestas Papæ, tamen respectu bonorum ipsarum Ecclesiarum secus. Unde non potest auferre bona unius Ecclesiæ, & dare alteri, sine causa, ut notat Glossa. *Vide Archid. & Dominic. in can. 1. dist. 10.*

(6) Quamvis, saith *Felinus*

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universal Church within the same Limitations, to avoid falling into an Absurdity of so much Consequence, That the Church hath err'd in so important a Matter, while the Court of *Rome* hath acted uprightly.

Navarr adds farther, That in the *Clementine*, where the free Disposal of Benefices are said to belong to the Pope (7), is not meant by the Word *free* a Disposal absolute, and without Permission or Consent of any Person whatsoever; but only a Disposal without Prejudice to any Body else. Now, if we should admit a Construction that appears so reasonable, it would make strongly against Reservations, seeing they are prejudicial to the Bishops. The Popes could no longer give Benefices to Strangers, seeing that would be prejudicial to the Natives of the Place, in Favour of whom the Requests had been made: And it favours as little any Pretensions to a Power of altering Testamentary Dispositions, by being so injurious to the Memory of the Dead.

I know very well there are others who are ready to admit all this to be true, provided there be no lawful Cause to the Contrary. But the Question is, Who is to be Judge of the Reasonableness of the Cause? For if he, whose Authority it is design'd to restrain, be the only Judge, it is the same thing to give him the absolute Power, as to limite it by any Condition, if the Law is not superior.

What *Navarr* farther adds is very remarkable, That in our Age, the Opinion of the Lawyers, who enlarge so much on the Power of the Pope in Beneficiary Matters, is extreamly countenanc'd, because it gratifies the Avarice and Ambition of those

(7) Ad quem Ecclesiarum, & libera dispositio nescitur per dignitatem aliorumque beneficiis. *Clement. lib. 1. tit. 5. c. 1.*

who are in pursuit of many Benefices, and that he had heard a Divine and a Canonist, both famous in their Profession, publickly declare, that they would make no Scruple to accept all the Benefices in the Kingdom, if the Pope would so bestow them (8): But that on the contrary, *Pius V.* in Discourse one Day told him, That the Lawyers ordinarily attributed more Authority to the Pope than belong'd to him: To which *Navarr* answer'd, That there were some also, who would take a great deal from him of what belong'd to him; and therefore a middle Course was to be taken, in accommodating equitably betwixt Divine and Human Laws: Not following here in the Example of the modern Lawyers, who carry the Authority of Human Laws so high, that they decide in their Favour against the Divine (9).

However, tho' the Respect due to the Pope will not suffer me to contest an Opinion, which gives

(8) They are yet more scrupulous than an Abbot, whom I heard say, That he would make no Scruple to hold 3000 Abbies or Pories, if the King would give them him: A Declaration worthy of Man, who is neither of the Religion he professeth, nor of that which he quitted, in order to get Benefices: And who enjoyeth one at this time, among others, which he won of the Collator, at a Party at Picket.

(9) The Canonists are not contented to give the Pope an absolute Power over all Men, but have extended it even to the Angels. *Vide Felin.* upon the Chapter *Canonum Statuta.* Num. 6. *extra de constitut.* and

Decius upon the same Chapter, *lect. 2. num. 21.* where he lays down for a Rule, That the Pope alone hath more Authority than all the Angels put together, *Major est, faith he, auctoritas Papæ, quam sanctorum.*

To see on what Foundation the Pope's Pretension is founded, of his being Master and Lord of the whole Earth, there needs only to read the Commentary of *Innocent IV.* upon the *Chap. 8. extra de voto, & voti Redempt.* But this Pretension is well refuted by *Fernand Vasquez, lib. 1. Controvers. illustr. cap. 21.* and by *Grotius* in *Chap. 3. of his Mare Liberum.*

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him so much Power, yet I cannot comprehend, how it can be made to consist either with Divinity or Reason. I will therefore only propound some Difficulties, which are commonly started by those, who have writ on this Subject; the Resolution of which, would put the Matter in a very clear Light.

CHAP. LII.

QUESTION I.

THE first Question is, If the Pope hath so large an Authority, who hath given it him? It is plain not JESUS CHRIST, seeing the Authority derived from him, extends only to spiritual Things; that is to say, to bind and loose, to remit or retain Sins (*a*). As for Ecclesiastical Goods, we have already proved, that they are possess'd by Human and not by Divine Right*. The Pope therefore hath receiv'd no such Power from GOD. And it is plain he hath receiv'd none from Princes, Testators, and Canons of the Church; because all these have committed the Administration of the Goods and Benefices of every Church to the Ec-

(*a*) Tibi dabo, *saieth* Jesus Christ to St. Peter, Claves regni cœlorum. Et quodcunq; ligaveris super terram erit ligatum & in cœlis, *Mat.* 16 & 18. Quorum remiseritis peccata, remittuntur eis, & quorum (*my Kingdom is not temporal*) retinueritis retenta, *Joan.* 20.

By the Keys of the Kingdom of Heaven, Jesus Christ giveth St. Peter to understand, that he gives only a spiritual Jurisdiction, seeing his Kingdom is purely spiritual. *Regnum meum non est de hoc mundo.*

* Article 20. Quest. 1.

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clerical of the Place, and under such express Conditions as cannot be alter'd. Seeing therefore no other Patrons or Owners can be found but these, and that there is no other Right but what flows from them ; it remaineth to inquire by what other Channel this Authority could be convey'd to the Pope.

Q U E S T I O N II.

To this Question may be added another as material, which is, that if he hath this Authority, whence comes it, that his Predecessors for more than 1000 Years have never exercis'd it ? And that neither Councils, Fathers, Canons, nor ancient Histories have ever mention'd it ? They cannot ascribe it to the different Circumstances of Times in the Church, as requiring it more now, than in so many Ages past : For from the Year 800. until 1100. the Confusions and Corruptions were so great, that ours are comparatively inconsiderable : Yet no Pope then ever concern'd himself in the Management of the Estates of other Churches, as much as they wanted Regulation : And even after the Popes had begun that Practice in some measure, none of them ever pretended to so absolute a Power and Direction, before *Clement IV.* Nor even did that Pope venture to lay a direct Claim to such a Power, touching it only in passing, and without the Appearance of any Design in mentioning it *. A way of speaking which seldom useth to be convincing, seeing things that are occasionally mention'd, and as it were by Accident, are commonly

* See *Chap. 35.* and the Decretal of Pope *Clement*, in the Notes.

express'd.

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express'd in another Manner, than if they were direct Propositions to be examin'd and discuss'd.

Nor can any good Effect it has produc'd be urg'd in Defence of this Authority, which hath open'd so wide a Door to all the Abuses. From this Quarter have come Pensions, *Commendams*, Regresses, Unions, Resignations, Expectatives, Reservations, Annates, *Quindenniums*, and other Devices, which have broke in upon us, and which none pretends to approve, or excuse, otherwise than by the general Corruptions of the Times.

QUESTION III.

There remains a third Difficulty upon this Point, no less considerable, which is, That ever since the Popes first began to exercise this absolute Power, the Christian Princes have constantly complain'd, and made Opposition, as we have above related, which hath obliged the Popes to restrain the Exercise of it.

But it hath not been such a Restriction, as hath amounted to a voluntary Cessation of that Authority, but rather a sort of Contract or Compromise, usual in the Case of doubtful Rights, whereby it is stipulated and declared with Princes, how far their Pretensions shall extend, which cannot be carried to the Prejudice of the Popes their Successors, if the Authority of the Pontificate were not before restrain'd within any Bounds. *Leo X.* when he took away the Pragmatick, establish'd the Concordat, and so he styles it in the Bull. Now, whoever hath a full and absolute Authority, cannot be said

to make any Agreement (1), but treats as a Superior with his Subjects, and by way of Concessions: And I lay not this Stress alone upon the Word Concordat, but the same Argument holds in all the like Cases. Not only *Leo* styles it in his Bull *Concordia* (b), but farther explains himself in these Terms, *Illam veri contractus & obligationis inter nos, & sedem Apostolicam ex una, & Franciscum Regem ex altera partibus legitime uniti.*

If any one require here a farther Explanation, it is very obvious, The holy See is at Difference with the Kingdom of *France*: The Popes claim an absolute Power over all Benefices, reserving to themselves the Disposal of them, &c. *France* on the contrary maintains, That such an Authority belongs to its own Bishops: To put an End to this Difference, they come to a Declaration of their Rights, that sets Bounds to their Pretensions on both Sides. How then can these Pretensions be said to have any fix'd, indisputable and natural Right?

If there be any better Answer or Solution to be made to these Difficulties, I profess my own Inability to find it, and must refer my self to the Judgments of the Learn'd. I can only say, That if the Practice of the Church for more than 1000 Years had been yet preserv'd, which was, That the Estates of every Diocese were managed by its own proper Ministers, all these Grievances had been prevented, and the Revenues had doubtless been

(1) This is perhaps one of the Reasons, why *Leo* would not suffer the Council of *Lateran* to call it the Concordat in the Decree, where it speaks of the Suppression of the Pragmatick, tho' the one hath as much relation to the other, as the *Abbat* is to the *Vente*.

(b) *Concordiam cum Francisco inviolabiliter observari desideramus.*

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more usefully and faithfully applied than they are at this Day, if we were capable of profiting by any Examples.

QUESTION IV.

Having in the three first Questions treated of the immoveable Estates of the Church, we come now to the fourth, which concerns the Fruits or Revenues arising from those Estates.

All the Fathers who have writ before the Division was made of the Goods of the Church into four Parts, have all agreed, that they belong'd to the Poor; and that the Ecclesiastick Minister had no other Right in them, but to manage, direct, and dispense according to those Necessities; treating as Robbers, and sacrilegious Persons those Ministers, who applied those Estates to any other Purposes than the Design of their Institution. Yet all the Ecclesiasticks had not the Management of the Church Estates, tho' they were maintain'd out of them, as well as the Widows, the Poor, and other miserable Objects: But this Care, after the Example left by the Apostles, was committed to the Deacons, Sub-deacons, and other Oeconomists (1), who gave

Account

(1) The Church being become rich in Possessions, and the Deacons and Bishops distracted with the Care of them, the Council of *Calcedon* order'd that the Bishops should appoint a Steward to look after the Revenues of the Churches.

Quoniam, saith the Council, Can. 26. in nonnullis Ecclesiis Episcopi absq; Oeconomis tractant res Ecclesiasticas, placuit omnem Ecclesiam Episcopum habentem ex proprio Clero Oeconomum quoq; habere, qui ex Episcopi sui sententia res Ecclesiasticas

Account to the Bishop *, and in some Places to the Presbitery (2).

After that Benefices were instituted, it seems probable that the Bishop, Priests, and other Clergy dispos'd as freely of the Revenues of their Benefices as of their own Estates, and as of the Share which properly belong'd to them. Yet all Writers seem to agree, that the Priest ought not to take any more of the Revenue of his Benefice, than what was strictly necessary, and that is obliged to employ the rest in Works of Charity; and certainly with great Reason, for the Division which was made of the Revenues could not change their Nature: For if an Estate which hath a Duty or Charge annex'd to it, comes to be divided, both the Parts are subject to the same Obligation.

Among those Fathers who have writ since the Division, St. *Gregory* who liv'd something more than 100 Years after, and St. *Bernard* who liv'd about 800 Years after him, inveigh loudly against those who make an ill Use of the Revenues of Benefices, as Usurpers of the Publick Goods, and

clesiasticas dispenset, ut nec sine
testibus sit Ecclesiæ administra-
tio, atq; adeo res ejus dissipen-
tur, & probum ac dedecus sa-
cerdotio inuratur: Si autem
hoc non fecerit eum divinis et-
iam Canonibus subjeci. *Vide*
Can. 11. Concil. Nicæni 2.

The Stewards were call'd
Vice-Domini, as may be seen
by the Canons *Volumus 2. &*
Diamonum 3. dist. 89. which
are taken from St. *Gregory*.
The *Vice-Domini* of the Bi-

shops, saith the *Perronians*
were certain Lords, who were
Vicars of the Bishops in their
Temporalities, but Lords of
the Soil.

* *Vide Momocan. Photii,*
tit. 10. cap. 1. & ibi Balzamon.

(2) They so call'd the Col-
lege of Priests and Deacons. All
Affairs laid before this College,
who examin'd and reported
them to the General Assembly
of the Faithful.

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Murderers of the Poor, whom they ought to feed (a).

This hath been the Language of all the Doctors and Writers on this Subject, until the Year 1250. when they began to refine upon it with more Subtlety: And as what the ancient Writers affirm'd was admitted, That every Clergyman sinned, who employ'd the Overplus of what was necessary for him, to ill Purposes, the Question was now stated, Whether those Beneficiaries who did not employ the Overplus to the Uses he ought, did not offend more than he who spends his own Estate to ill Purposes? Or, Whether they be not oblig'd to Restitution as much as if they had spent another Man's Estate?

If they really be the Proprietors of the Fruits of their Benefices, or, to speak in the Terms of the Civilians, *Usufructuarii*, they sin indeed in administering them ill, but they do Injury to none, and consequently are bound to no Restitution, since they have made an ill use of nothing but their own. But if they are only the Dispensers, with a Power of employing so much only to their own Use, as is necessary for them, and no more, which the Law calls *Usuarii* (b), they are obliged to make Restitu-

(a) Cum nos, saith St. Gregory, lib. 3. of his *Pastoral*, Admonit. 22. necessaria indigentibus ministramus, sua illis reddimus, justitiæque potius deb tum quam misericordiæ opus implemus.

And to the same Purpose saith Peter Cantor, That the Charities given by Beneficiaries are not properly given to the Poor, but to Jesus Christ, whose Patrimony they have the Care of, as Dispensers and Exe-

cutors of his Will; which if they do not faithfully perform, they are no better than so many Robbers.

(b) Cum usuarii tantum, non usufructuarii, sint, omnes Ecclesiæ proventus solo nudo usu excepto pauperibus, qui Ecclesiæ bonorum vero domini sunt dare vel potius reddere tenentur. The President du Ferrier in one of his Harangues to the Council of Trent.

tion to the Value of what they had dissipated : And which is more, whoever receives any Gift by the Will or Donation of such as have no Right to give, he also is oblig'd to make Restitution.

A real Scruple of Conscience first gave Rise to these Doubts, which after having been canvas'd for 350 Years (3) remain undecided at this Day, with an equal Number of Authors on both sides to support it : And it hath been lately reviv'd with much Heat and Wrangling betwixt *Martin Navarr*, a celebrated Canonist and Casuist, and *Francis Sarmiento* * : *Navarr* maintaining, that Beneficiaries are not the Proprietors, but meerly the Dispensers of those Revenues ; so that they who sin are obliged to make Restitution.

Cardinal *Cajetan* holds a middle Opinion, saying, That Beneficiaries who have no more than what is strictly their own, or but a little exceeding, are truly Proprietors of their Benefices, because they hold no more than what is the Share that is due to them : But this cannot be said of the rich Bishops and Abbots, whose Revenues consisting both of the Church's (4) Share and the Poor's, oblige the Beneficiaries in Justice to bestow largely in Alms, and other pious Works, under Pain of Restitution, both in those who lay it out otherwise, and in those who

(3) To reckon from the Year 1250. when, he saith, this Question began to be set on Foot ; which points at the time when *Fra. Paolo* wrote this Treatise, viz. in the Beginning of this Age.

bus Ecclesiasticis the Arguments of *Navarr* and *Sarmiento* are related by *Garcias*, in his Treatise *de Beneficiis*, part. 2. cap. 1.

(4) That is to say, of what belongs to the Frbrick, which they are entrusted to look after.

* In his Treatise *de Redditi-*

receive it (c). Nay he carries it so far, as to say, That whoever receiveth from the Pope any Preferments, or Estates belonging to the Church, in or-

(c) Redditus Episcopales aut sunt tenues, ita quod sufficiant pro subsidio Episcopi; aut sunt mediocres, ita quod sufficiunt, & parum abundant; aut sunt abundantes notabiliter supra id quod necessarium est ad sustentationem Episcopi. Et si primo aut secundo modo se habent, cum constet, quod principaliter ordinantur ad Episcopi sustentationem, idem videtur de redditibus istis iudicium, quod de præbendis Clericorum [*observe that he hath said a little before, that the Revenue of the Bishop is as it were his Prebend*, Constat autem quod redditus Episcopi est sicut Præbenda illius] ita quod quia quod parum superabundat, pro nihilo a jure computatur, propterea non obligantur tales Episcopi ad hujusmodi distributionem (scilicet in pauperes, & fabricam) si autem redditus sunt pingues & abundantes, ita ut sapientis animo cadere non possit, quod sint Episcopo assignati pro ejus sustentatione, tunc tenetur Episcopus duas quartas ad minus distribuere in pauperes, & ecclesie fabricam, seu supellestem, & cetera. Et ratio est, quia ex hoc, quod clerici habent seorsum suam portionem, non est subtracta a jure pauperibus portio illis debita ex jure; & similiter non est fabricæ subtracta a jure portio illi ex jure debita; sed bona Epis-

copalia remanent affecta tali juris dispositione antiqua & sancta, ita quod quemadmodum, quando erant communia Ecclesiastica bona his quatuor scilicet Episcopo, Clero, Pauperibus, & Fabricæ commissa erant Episcopo cum vinculo, & debito talis distributionis, ita excluso uno membro, scilicet Clero tali communitate, quia jam habet proprias præbendas loco sue portionis, remanent bona Episcopalia communia reliquis tribus, ita quod pauperibus remaneat debita quarta portio. *Com. 2da. 2da. quest. 185. art. 7. in resp. ad quest. 1.*

Si autem, *saieth he, in the Answer to the second Question*, redditus Episcopi tantus est, ut rationabiliter appareat quod non quasi præbenda sibi respondeat, sed quia pater est pauperum, igitur tanta bona sue sunt fidei commissa ut distribuenda — ita quod Episcopus talis male dispensans, & illi ad quos perveniunt, tenentur ad restitutionem omnium illorum, quæ pauperibus vel ecclesie debentur. Rationabile autem videtur, quod si abundantes redditus ex ecclesiasticis decimis, aut possessionibus constant, commissa sint Episcopis, ut patribus pauperum Episcopo creditæ sunt. Ideo enim Episcopis datæ sunt, quia occulta fide perspiciebatur eos esse partes pauperum.

der

der to enrich and aggrandize himself in the World, are also obliged to make Restitution : All Donations of the Goods of the Church, which have not a Motive of Piety or Charity, being no lawful Distribution, but an Injustice and a Dissipation (d).

Without refining and subtilizing too much on this Subject, all the Difficulties that can arise upon it, methinks may easily be resolv'd. And first as to the Revenues which are founded upon Wills, or some other original Right or Institution, and dedicated to some pious Use, for any Man to convert them to his own, or to any other secular Use, is, in my Opinion, an Abuse ; which may plainly be call'd an Invasion of another Man's Property.

And if a Beneficiary should fail in performing any Trust in the Manner committed to him, either in misapplying the Revenues to himself or others, I cannot comprehend how he would be able, under any Bull of the Popes, or any other Pretence, to justify himself, unless he could prove himself not to be exactly in the same Situation with an Executor, who takes to his own Use what the Testator left

(d) Nec putes, *saith he*, propterea quod Papa habet plenitudinem potestatis ecclesiasticæ, ob hoc possit de bonis Ecclesiæ disponere ; quoniam plenitudo potestatis Ecclesiasticæ intelligitur in spiritualibus tantum — Unde ita tenentur ad restitutionem, qui a Papa bona Ecclesiæ prohibito Papæ habuerunt, ut ditentur, exaltentur, & magnificentur. [This gives a deep Wound to the *Nepotism*, and condemns the Doctrine of the Canonists, who held, that the Pope can give Benefices

Ad Nutum, and that in this Case his Will stands in place of Reason.] *He concludes*, omnis namq; donatio ecclesiasticæ rei, pietate, vel necessitate, vacua, non distributio, sed dissipatio est. *Comment. 2de. 2de. ad artic. 8. quest. 43. 12. q. 2. Archid. post Hugonem in Can. non liceat Papæ, saith, that* Papa peccat mortaliter, si vult res ecclesiasticas consumere in turpes usus, vel dare consanguineis, ut eos divites præ aliis faciat, vel ut ipsi construant palatia.

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to others: And this is a Truth, which seems to carry such a self Conviction along with it, as I persuade my self no Man can doubt, who is not willing to cheat himself.

On the other side, common Justice requireth, that he whose Work it is, should pay the Workmen their Wages; and it cannot be denied, but that the Choristers, the Organist, and other Officers of the Churches are Judges of the Prices of their own Service.

Neither is there any thing unreasonable in saying, That the Priests, and the other Clergy ought to be paid their Salaries for the Services they perform in the Church; and that they have the only Right to such Revenues. And when a Benefice is instituted upon Conditions, which subject to such and such particular Services, such as are many Canonries, Prebendaries, Theologales, Mansionaries (e), and other Benefices of that Kind, there is no Absurdity in saying, that these are the Considerations for such Services.

The Institution of Benefices is so ancient, that the Memory of their Original is lost, as well as whether they were held at first by the Tenures of any Services to the Church. But this a Man of scrupulous Conscience can no longer doubt, when he compares the Revenues with the Service he rendereth to the Church; in putting one of these in the Scales against the other, he will easily be convinced that the Benefice is the Salary for his Service.

(e) Mansionarius, *saith* Opu- domesticus a mansione. Hodie
perius in his *Explanation of Ec-* in multis Ecclesiis extant, cu-
clesiastical Names, dictus est ramq; psalmodiæ & altarium
Custos, & Conservator ædium habent. Thus the Sacristary
ecclesiasticarum, templorum, & comes nearest to the Mansionary.
altarium. Item familiaris, &

But where the Revenues much exceed the Portion that is necessary for the Incumbent, who can be so weak to believe, that Revenues of that Size were ever intended to be left him to dispose as he pleased, and not to know, that there is a Duty or Charge annex'd to the Benefice in its very Institution, considering the little Probability that so large Revenues should be design'd for one Man (f) ?

These controverted Points among the Casuists, so full of Difficulties when they are proposed in Generals, are easy to resolve when they come to particular Cases: And, Conscience rightly consulted, and in Persons who have not stifled it with a wilful Ignorance (5), will easily clear these Doubts (g). For GOD leaves not the Mind of those to wander under any Uncertainties of Importance, who tread in the Paths describ'd in his Commandments (h).

(f) Iniqua, *saitb* Cajetan, esset lex decimarum in novo testamento, si ultra honorabile stipendium ministrorum Dei, tanta rerum affluentia uni deputaretur, cum damno totius populi, nisi ut patri pauperum.

Comment. 2da. 2da. artic 7. quest. 185. in resp. ad quest. 2.

(5) Veritatem Dei in injustitia detinent, *Rom. 1.*

(g) Intellectus bonus omnibus facientibus eum, *Psal. 110.*

(h) Deus enim illis manifestavit, *Rom. 1.*

C H A P. LIII.

AS for any new Acquisitions, every thinking Man, I believe, is sensible that they draw towards an End ; or at least, that they are like to encrease but by very slow Degrees. The Clergy, the Monks, and Military Orders have lost their Friends. The Mendicants, who have reap'd so little Advantage hitherto from the Permission granted to them by the Council of *Trent* to acquire Estates, have no Prospect of much more from it for the future : In places indeed where they have already acquired any thing, and have not lost their Interest, they have most Reason to hope for more Advantages, tho' with no Probability of happening in any considerable Degree.

The others, who would not be comprehended in this Privilege, I mean the Capuchines, preserve their Reputation because of their Poverty : And if they should suffer the least Change in their Institution, they would acquire no immoveable Estates by it, but would lose the Alms they now receive.

It seems therefore as if here an absolute Period were put to all future Acquisitions and Improvements, and that no more Advances could be made in this gainful Trade : For whoever would go about to institute a new Order, with a Power of acquiring Estates, this Order would certainly find no Credit in the World : And if a Profession of Poverty were Part of the Institution, while that lasted, there could be no acquiring, nor Credit if they broke it.

Yet

Yet our Age can boast of a Production truly singular and original, and inferior to nothing of this Kind, which hath appear'd in any Age. This is the Institution of the Jesuits, who by a Mixture of Poverty and Abundance, conciliate to themselves the Esteem and Affection of the World, rejecting with one Hand, what they receive and possess, as a Company and Society, with the other. For tho' their profess'd Houses (1) are not capable, by their Institution, of possessing immoveable Estates, yet their Colleges are capable of acquiring and possessing (2).

They say, and certainly with Reason, that no Government simple and unmix'd is perfect, but that Mixtures are found to have their Conveniencies, on all Occasions : That the State of Evangelick Poverty embrac'd by the Mendicants hath this Defect, that it is only adapted to such as are already well advanced in the Way to Godliness, whose Number therefore cannot be very great. But for their parts, their Designs in receiving Youth into their Colleges is, to instruct, and by an Acquisition of all Vertues, to fit it for a Life of Evangelick Poverty ; so that Poverty is indeed their Design and essential End, but they grow rich by Accident.

But the Facts we see are yet a stronger Degree of Evidence, than the Words we hear. They write themselves, that they have at present 21 profess'd Houses, and 293 Colleges : From this Disproportion every Man may conclude which is the essential Part of their Institution, and which their accidental. Upon the whole it is not to be denied, that

(1) In which the Society essentially consists, as the General *Lainez* said to the Council. (2) As being founded to the End to entertain great Numbers of Students.

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they have acquir'd vast Riches, and that they are in the high Road to encrease them (3).

As all the Temporalities which the Church enjoyeth arose from Alms and Oblations, so in the Old Testament the Fabrick of the Sanctuary was supported the same Way (a). But when the Inspectors of this Work saw the People continue their Oblations, tho' all was given already that was needful, they said to *Moses*, *The People give more than is needful*; and *Moses* straight publish'd an Order, That no more should be offer'd for the use of the Sanctuary, because more than sufficient had been offer'd already (b). By which it is manifest, That G O D would have nothing superfluous and superabounding in his Temple. And if it were his declared Pleasure in the Old Testament, which regarded only the Things of this World, that all the Goods of the Church should not go to her Ministers, it is less declared in the New.

(3) We may observe here, that *Fra. Paolo* had a true Hatred for the Jesuits, as a good *Venetian* and Republican; for their Institution, which is wholly Monarchical, seems incompatible with the Maxims of the *Venetian* Aristocracy. And it was one of the strongest Reasons which the Doge *Leonard Donato* urged to the Cardinal *de Jeyeuse*, who solicited their Re-establishment with great Warmth. (an. 1607.)

To which add, that this Society hath more Wit and Penetration than a Government desireth, that is so apt to take Umbrage, and where for Reasons of State, the Priests, Monks,

and the People are overrun with Libertinage and Ignorance.

(a) *Obtulerunt mente promptissima atq; devota primitias Domino ad faciendum opus tabernaculi testimonii; quicquod ad cultum necessarium erat, viri cum muliebribus praeberunt, Exod. 35.*

(b) *Quotidie manè vota populus offerebat: unde Artifices venire compulsidixerunt Moyses, plus offert populus quam necessarium est: Jussit ergo Moyses praconis voce cantari: Nec vir nec mulier quicquam offerat ultra in opere sanctuarii — eo quod oblata sufficerent, & superabundarent, Exod. 36.*

But

But where will their Acquisitions end? or what Bounds will be set to them? Who among them will say, *The People have given enough?* The Ministers of the Temple, who made up the 13th Part of the People, were not capable of receiving or enjoying any more than the Tenth (c): Ours, who are scarce the hundredth Part of the People, possess at this Time perhaps more than the Fourth.

Is it impossible there could be any Inconvenience in Churchmen's acquiring *ad infinitum*, and if all the rest of the World were reduced to hold every thing by Farm? Among Christians, human Laws have no where set Bounds to any Man's Estate, because he who encreaseth it to Day, may alienate to Morrow. But there is in this Case a Circumstance perhaps without Example, That an Order of Men perpetual, and which never dies, should be always capable of acquiring, and never of alienating (4). In the Old Testament the Tenth was given to the Levites, because it was the LORD's Part (d),

(c) Nil aliud possidebant, decimarum oblatione contenti, Num. 18. Oblationes Israel comedent, & nil aliud accipient de possessione fratrum suorum, Deut. 18.

(4) The Clergy being a Body which never dies, which daily receiveth Increase by new Donations, and can part with nothing again, a Writer of good Repute illustrates the Matter with saying, That as the Thighs and Arms grow lean when the Belly grows too big, so fares it with a Republick, whose No-

bility and People being the Legs and Arms, grow lean, and pine in Proportion as the Clergy encrease. *Reflexions sur le traite de la Politique de France.*

(d) Accipies, saith God to Aaron, de his quæ sanctificantur & oblata sunt Domino — omnis oblatio, & quicquid redditur mihi, & cedit in sancta sanctorum, tuum erit, & filiorum tuorum. *And some Lines after,* Omnes primitias sanctuarii, quas offerunt filii Israel Domino, tibi dedi & filiis tuis jure perpetuo, Num. 18.

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and therefore they were forbid to take any more (e): A Rule which they, who enjoy the Privileges of the *Levites*, ought to observe, in taking upon them all the Conditions requir'd of them, and not only such as turn to their particular Advantage (5).

(e) In terra eorum nihil possidebitis, nec habebitis partem inter eos. *And God gives the Reason to Aaron. Ego pars, & hæreditas tua. Because, saith he, I am my self thy Part and thy Inheritance. Ibid.*

Non habebunt *Levitæ* partem & hæreditatem cum reliquo *Israel*. — Dominus enim ipse est hæreditas eorum, *Deut.* 18.

(5) The Sense of the Author is, that if the Ecclesiasticks will urge the Example of the *Levites*, who receiv'd the Tenths of the People of *Israel*, they ought like them also to renounce every thing else, and consequently all sort of Acquisitions: It not being reasonable to enjoy a Priviledge without observing the Conditions imposed by him who granted it.

C H A P. LIV.

HAVING given a large Account how the Church hath acquired her Possessions, and how they have been employ'd, it remains that we examine what became of the Fruits and Revenues which happen'd to be remaining and undispos'd at the Deaths of the Beneficiaries; how they were dispos'd, and whether the dying Person might dispose by Will; or if intestate, to whom these Profits accrued.

While the Goods of the Church were in Common, and under one general Administration, it is certain that all that was found in the Hands of the Minister, remain'd incorporated in the common Stock, and was manag'd in the same Method by his Successor.

But

But when the Benefices were instituted, it was order'd at the same time by the Canons, That whatever Estate the Beneficiary should leave at his Death, should go to the Church: By the Church, if it were Collegiate, and had a common Table, was understood the whole Body of the Clergy: But if the Beneficiary had no Collegues or Brother-professors, then by the Name of the Church the Successor was intended, who was oblig'd to administer these remaining Fruits in the same Methods as his Predecessor had been: And this Usage continued until the Year 1300.

But as it often happen'd, that Beneficiaries had other Estates, to which they were either born, or which they had requir'd by their own Industry, it was said, that they might dispose of these as absolute Proprietors by Will; but not of the Profits of the Benefice, in case of Death (a). Whence it came, that the Clergy who had small Benefices, and where the Revenue exceeded not the necessary Expence, disposed by Will all their own Estate, and also what they had saved by their own Parcimony out of their Benefices, reckoning this as an acquired Estate. And there is a Custom, which is the Consequence of this, observ'd since in many Christian Kingdoms, that the small Beneficiaries have a Power of disposing by Will, even the Fruits of their Benefices; and that where there was no Will, the next Friends inherit to the Profits, as in the

(a) *Episcopi de rebus propriis vel acquisitis, vel quicquid de proprio habent, heredibus suis, si voluerint, derelinquant; quicquid vero de provisione sue ecclesie fuerit, sive de agris, sive de fructibus, sive de oblationibus omnia in jure Ecclesie reservare censuimus. Can. 19. 12. q. 1. an. 572. vide Can. 20. Causa & q. cit. & cap. 1. extra de Testam. Blaſamen. & Zenarum ad Can. 22. Conc. Chalcedon.*

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Cafe of an Intestate, and as if it were their own Patrimony.

But whatever the Bishops left at their Deaths, belong'd to the Church (1) by the ancient Canons. Yet after this, in some Countries the Bishops obtain'd a Right of passing by Will the Ecclesiastical Fruits: Inſomuch that about the Year 1300. there were three different Customs in Force in different Countries. The *first*, where no Clergyman could dispose of the Fruits remaining of his Benefice: The *second*, where these Fruits were under the same Laws and Direction as their own Patrimonies: The *third*, where the inferiour Clergy could dispose, but not the Bishops; to which last whatever was due went to the Church.

In succeeding Times, when the Occasions for Money grew more frequent and urgent, the Popes sent their Officers into all those Kingdomes where the Church had a Custom of inheriting to the Goods of deceas'd Beneficiaries, to apply them all to the Apostolick Chamber, before a Successor was appointed; which was easily put in Execution, no Man being concern'd in Interest to oppose it, during a Vacancy, and the Successor satisfying himself, as with a thing done before his Time.

(1) Or rather to the Successor: For the Can. 22. of the Council of *Chalcedon*, forbids the Clergy to take Possession of the Goods of the deceas'd Bishop. By the Can. *non liceat* 12. q. 2. The Metropolitan himself cannot dispose of any.

Non liceat alicui Metropolitano mortuo Episcopo, qui sub eo est, aut resejus, aut Ec-

clesiæ suæ ferre; sed sint sub custodia Cleri Ecclesiæ defuncti Episcopi, usq; dum alius ordinetur Episcopus. Si vero Clerici in Ecclesia non fuerint, tunc Metropolitanus illibata omnia Episcopo, qui ibi ordinabitur, reddat. See Balzamon and Zonarus upon these two Canons, and Can. 48. *Caus.* 12. q. 2.

They

They then began to appoint such Ministers throughout all Places where they had Authority, who were call'd Collectors; and the Estates which the Beneficiaries dy'd possess'd of, had the Name of *Spolia* given them.

Tho' these Seizures were made with as little Noise as was possible, yet there being no Law or Ordinance to justify them, they could never be put in Execution without some Murmurs of the Heirs of the Deceas'd, as well as of others; for which the rigorous Exactions of the Collectors and Sub-collectors gave Occasion; who, under the Title of *Spolia* laid their Hands on the very Ornaments of the Church, and set up the most vexatious Inquisitions into Titles, declaring which Estate was acquired by the Industry of the Deceas'd, and which was Patrimonial, straining every Point, and improving every Doubt, that might tend to prove, that every thing they found was the Fruits of Benefices. And when at any time any Question remain'd concerning the Nature and Quality of these Goods, the Apostolick Chamber, to which it was referr'd, stood ready with Censures and Excommunications to discharge upon those who made Resistance.

In *France* the Custom hath obtain'd, that the *Spolia* of the Bishops and Abbots should go to the Popes: But in the Year 1385. *Charles VI.* made an Ordinance, that their Heirs should succeed to the *Spolia*, as well as to the Patrimonial Estates (2).

Yet

(2) This Ordinance is to be seen at length, *part. 3. Stil. Parlam. tit. 27.* But because of its great Length, it will be sufficient to extract only so much as relates to the inimportable Extorsions and Vexations mentioned by *Bather Paul.* Quod importabile & irrationabile existit, licet de jure, usu & consuetudine, & communis observancia notorie observatis, Episcopis

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Yet in several Countries the Right or Pretensions to the *Spolia* continued to our Times ; wherein the Complaints against the Exactions of the Collectors grew so loud, that some had the Courage to oppose them openly, and to deny that the *Spolia* of the deceas'd Beneficiaries belong'd to the Apostolick Chamber.

This produc'd a Bull of Pope *Paul III.* in the Year 1541. which sets forth, " That some Persons
" too busy and inquisitive (3), in order to invade
" and usurp the Rights of the Apostolick Cham-
" ber, had rais'd a Doubt, Whether the Goods of
" Prelates, and other Ecclesiasticks, which are
" call'd *Spolia*, belong'd to this Chamber, because
" there was no Apostolick Constitution for that
" Purpose, tho' it is evident from the Instances of
" Collectors sent by his Predecessors into so many
" several Parts to exact and recover them, that it

Episcopis regni nostri testari liceat, & in suis testamentis executores ordinare: Qui prædicti Executores, aut saltem ipsorum Episcoporum heredes ad faciendum reparationes ædificiorum Episcopaliū, dum casus eveniunt, per Judices, & officarios nostros compelluntur, & compelli consueverunt. Et cum ita fiat, ædificia & possessiones dictorum ædificiorum Episcopaliū in statu non deformi permanebunt omni ruina carentes. At nunc, cum Episcopum in regno nostro ab hac luce migrare contingit, Collectores aut Sub-collectores summi Pontificis autoritate, bona mobilia, immobilia, ex decessu talium Episcoporum relicta, etiam illa,

quæ per suam industriam quæsi-
verunt, quæ amplius ipsorum
Episcoporum, neq; censentur,
sed ad suos heredes, aut eorum
Executores spectant, capiunt
—— Notum igitur faci-
mus, &c.

(3) Is not this a very justifiable Curiosity, when it relates to such excessive Claims and pretensions.

The Court of *Rome* hath exacted so much, that at last the World hath been provok'd to ask by what Right: And the Attempts of the Popes have often obliged the Princes to employ their Arms, and the Learned their Pens, to justify those Arms.

" hath

“ hath always been the Intention of the Popes to
 “ reserve and appropriate them to the Chamber.
 “ And therefore he willed and declared, That the
 “ *Spolia* of the Clergymen deceas’d, or which should
 “ die hereafter, in all Kingdoms and Estates what-
 “ soever, on this side, or beyond the Mountains or
 “ Seas, even in Parts where no Collectors had ever
 “ yet been appointed, should belong to the Aposto-
 “ lick Chamber (4).

(4) Cum a nonnullis ultimū curiosis, qui jura Cameræ Apostolicæ usurpare, ac Cameram præfatam illis defraudare vel-
 lent, in dubium redigatur, an res & bona, spolia nuncupata, prælatorum, ceterarumq; personarum Ecclesiasticarum, secularium & regularium, tempore obitus ipsorum remanentia, ex eo, quod Rom. Pontifici & Cameræ præfatæ reservata fore, aliqua generali apostolica constitutione forsitan non caveatur, ad Cameram prædictam jure legitimo spectare, & pertinere debeant.

Nos, etsi satis evident er constet & appareat, prædecessorum nostrorum Rom. Pontificum, & nostram indubiam intentionem, & voluntatem semper fuisse, ut spolia hujusmodi ad dictam Cameram spectarent & pertinerent, & quod pro eadem Camera exigerentur, & recuperarentur, cum prædecessores præfati diversos dictorum spolorum, ut ad Cameram spectantium, & pertinentium, collectores, & exactores in variis provinciis & locis deputaverint

& constituerint, & nos deputaverimus, constituerimus: Ac semper de illis dicti prædecessores perpleraq; literas, tanquam de rebus ad Cameram pertinentibus donando vel transcendendo, disposuerint, & nos disposuerimus — dubium hujusmodi enucleare, ac in præmissis opportunè provideri volente motu proprio, & ex certa nostra scientia, ac de apostolicæ potestatis plenitudine declaramus res & bona hujusmodi, spolia nuncupata, in quibusvis regnis ac dominiis, tam citra, quam ultra montes & maria consistentia, quæ pro tempore post obitus Prælatorum, & personarum quomodolibet qualificatarum, etiam Cardinalatus honore fulgentium, qui vel nullo condito testamento, vel absq; sufficienti facultate condito, decesserunt, decedent, remanserunt, remanent, & remanebunt, &c. spectasse & spectare, illaq; tanquam ad Cameram ipsam spectantia perpetuo colligi & recuperari potuisse & posse, atq; debere. 7 *Decret. lib. 3. tit. 3. cap. 1.*

Thus the Over-zeal of some Persons, in attempting to set a few Provinces at Liberty from such a Grievance, hath brought the Imposition to be challenged over the whole Universe; tho' it has not hitherto been drawn into Practice any further than in Places where it had been already admitted. But this hath been all along the constant Course of this Affair, the Popes have issued their Bulls, but the Noise they make in the World, and the Alarm Men take at the Novelty, make the Execution be suspended for some Time, and until a more favourable Opportunity: When that happens, they fall to execute the Bulls with the same Rigour, Exactness of Censures, and other Severities, as if the Bulls had taken Effect at the Time of their Publication, and had only been discontinued through the Malignity of some ill affected Persons.

Until the Year 1560. the *Spolia* comprehended only what remain'd of the Ecclesiastical Revenues at the Death of the Clerk or Incumbent. This Year Pope *Pius IV.* publish'd a Bull, in which he declar'd, "That under the Name of *Spolia*, which, " throughout all Countries and Dominions, through- " out the World, belong to the Apostolick Cham- " ber, were comprehended all whatsoever any " Clerk or Ecclesiastick had acquir'd, or should " acquire, by any Ways or Dealing, or Commerce " unlawful, or in any other Manner contrary to " the Canons (5)": Which is very comprehensive, since they understand all sort of Merchandise to be unlawful.

Again

(5) Cum a nonnullis vertatur in dubium, an res, & bona per Clericos, etiam in sacris ordinibus constitutas, ex negotia-
 tione illicita, aut alias contra sacros Canones acquisita, uti spolia, vel alia ad Cameram præfatam jure legitimo spectare

Again, by the Canons the Clergy are prohibited many Sorts of Plays, and little Trades and Ways of Livelihood and Industry; by which they make great Advantages, and from whence the Chamber will draw great Revenues, if the Bulls concerning the *Spolia* should ever gain Admittance in one half of *Italy*, where they have never yet been put in Execution, or in *Germany*, *France*, and other Kingdoms and States, where they have never yet been admitted. Besides that in the Kingdoms of *Castile*, by a Law of the Emperor *Charles V.* and *Philip II.* all the Clergy of those Kingdoms were exempted from this Imposition.

The Canonists found the Right to the *Spolia* chiefly upon this Assertion, That the Pope is the real Proprietor of all Ecclesiastical Revenues; but those who speak with most Modesty say, He is only Administrator of them.

By which Doctrine the Parties concern'd have slid into a Practice of much Convenience, which is, That if any Man have wrongfully possess'd himself of any Benefice, or committed any other Rob-

& pertinere debeant. Nos omnem desuper hæsitacionis materiam submovere, & malitiis eorum, qui jura dictæ Cameræ usurpare satagunt, obviare, aliaq; in præmissis opportune providere volentes, motu proprio, & ex certa nostra scientia, ac de apostolicæ potestatis plenitudine, decernimus & declaramus, omnia & singula, res & bona, cujuscunq; qualitatis & quantitatis existentia, ac in quibusvis regionibus, & regnis, ac dominis, tam citra quam ultra montes & maria consisten-
tia, per quosvis Clericos tam Seculares, quam Regulares, &c. ex negotiatione illicita, aut alias, contra sacros canones quomodolibet acquisita, ad eandem Cameram & non alios, etiam in quibusvis Cathedralibus etiam Metropolitanis, & Collegiatis, ac aliis Ecclesiis, Monasteriis, Hospitalibus, Militiis &c. successores spectare, ac sub nomine spoliorum venire, illaq; uti spolia, ad Cameram pertinentia, perpetuo colligi potuisse, posse, ac debere. Nov. 1560. *Ibid. cap. ultim.*

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bery on the Church, he came to an Agreement with the Apostolick Chamber to give such a Part, by which he not only secur'd the rest, but a safe Conscience to himself in the Enjoyment of it. Upon punctual Performance of which Agreement, it is universally affirm'd, he hath a general Release and Absolution for all the rest, and may lawfully retain and enjoy it as his own; seeing the Pope is either absolute Proprietor, or universal Administrator. And this is call'd, Compounding with the Apostolick Chamber, whose Power is thus happily enlarg'd, that those whose Consciences are either self-convicted, or have any Qualm about them of enjoying any thing that is not their own, but know not where to make Restitution, may have Recourse to this Composition in Relief of all their Scruples.

F I N I S.



